

**TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI ILMIY
DARAJALAR BERUVCHI DSc.07/2025.27.12.Yu.01.03 RAQAMLI
ILMIY KENGASH**

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

OTAMIRZAYEV OYBEK MURODULLO O'G'LI

**YER OSTI SUVLARIDAN FOYDALANISH VA ULARNI MUHOFAZA
QILISHNING HUQUQIY HOLATI**

12.00.06. - Tabiiy resurslar huquqi. Agrar huquq. Ekologik huquq.

Yuridik fanlar bo'yicha falsafa doktori (Doctor of Philosophy) dissertatsiyasi
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Otamirzayev Oybek Murodullo o'g'li

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KIRISH (falsafa doktori (PhD) dissertatsiyasi annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda global iqlim o'zgarishi, aholi soni va iqtisodiyot tarmoqlarining o'sishi, ularning suvga bo'lgan ehtiyoji, suv resurslari tanqisligi yildan-yilga ortib borishiga sabab bo'lmoqda. Yer osti suvlaridan foydalanishda jamoatchilik nazorati zaifligi, ruxsatnomasiz yer osti quduqlarini burg'ilashlar, aniq suv hisobini yuritishni takomillashtirish, javobgarlikni kuchaytirish zaruriyati mavjud. BMT ma'lumotlariga ko'ra, "dunyo bo'yicha qariyb 2.2 mlrd aholi toza ichimlik suvi iste'moli imkoniyatiga ega emas, 3.5 mlrd aholi esa toza texnik suvlarga ehtiyoji mavjud. 2050-yilda jahon aholisining 40 foizi chuchuk suv tanqisligini sezishi, 20 foizi esa chuchuk suvsiz yashashga majbur bo'lishi ehtimol qilinmoqda"¹. Bu esa o'z navbatida suvni tejash, uni ifloslanish darajasini pasaytirish hamda suvdan samarali foydalanishning qonunchilik asoslarini rivojlantirishni taqozo etadi. Suv qonunchiligini takomillashtirish orqali suv resurslarni muhofaza qilish, global miqyosda ularni saqlab qolishga oid huquqiy normalarni ishlab chiqish hozirda har mamlakat va ayni paytda jahon hamjamiyati oldidagi dolzarb muammoga aylandi. "Yer osti suvlari Yer yuzidagi barcha chuchuk suvlarning taxminan 99 % qismini tashkil qiladi"².

Jahonda yer osti suvlaridan oqilona foydalanish va ularni muhofaza qilish sohasida qator amaliy ishlar amalga oshirilmoqda, jumladan, turli davlatlarda yer osti suvlari zahiralarini monitoring qilish tizimlarini takomillashtirish, gidrogeologik tadqiqotlarni kengaytirish, yer osti suv resurslarini raqamli modellashtirish, sun'iy ravishda suv havzalarni to'ldirish texnologiyalarini joriy etish hamda yer osti suvlarining ifloslanishini oldini olishga qaratilgan chora-tadbirlarni ishlab chiqish bo'yicha izchil sa'y-harakatlar olib borilmoqda. Shuningdek, dunyo aholisini ekologik huquqiy madaniyatini oshirish, yer osti suvlariga bo'lgan munosabatni yaxshilash, barcha suv resurslarining har bir tomchisidan tejamkorlik va maqsadga muvofiqlik asosida foydalanish, transchegaraviy yer osti suvlari masalalarida xalqaro hamkorlikni kengaytirish, milliy qonunchilikni zamonaviy ekologik va huquqiy talablarga mos ravishda rivojlantirish, shuningdek ushbu yo'nalishda innovatsion huquqiy hamda institutsional yondashuvlarni ishlab chiqishga qaratilgan ilmiy tadqiqotlar rivojlantirilmoqda.

Respublikamizda iqlim o'zgarishi suv ta'minoti va yer usti hamda yer osti suvlari resurslarining shakllanishiga sezilarli ta'sir ko'rsatadi. Bu, ayniqsa, kam suvli yillarda, daryolar tabiiy rejimining o'zgarishi natijasida kam suvli texnogen sharoitlar paydo bo'lganda, shuningdek, yer usti oqimining o'rtacha yillik xarajatlari sezilarli darajada pasayganda yaqqol namoyon bo'ladi. Bundan tashqari, "global iqlim o'zgarishi natijasida so'nggi 50-60 yil ichida Markaziy Osiyodagi muzliklar maydoni taxminan 60 foizga qisqardi. Taxminlarga qaraganda, 2050-yilga kelib Sirdaryo havzasidagi suv resurslari 5 foizga, Amudaryo havzasidagi suv resurslari

¹ The United Nations World Water Development Report 2024, Water crises threaten world peace (<https://www.un.org/sustainabledevelopment/blog/2024/03/un-world-water-development-report/#:~:text=According%20to%20the%20new%20report,access%20to%20safely%20managed%20sanitation>)

² <https://hydrogeology.uz/>

esa 15 foizga qisqaradi³. O‘zbekiston Respublikasi Prezidenti Sh.Mirziyoyev ta’kidlaganidek, “Dunyoda suv tanqisligi muammosi tobora dolzarb bo‘lib bormoqda. Shu bois islohotlarimizning ilk kunlaridanoq suvdan oqilona foydalanishni davlat siyosati darajasiga olib chiqdik. Yaqinda suvni tejaydigan texnologiyalarni keng qo‘llash, suv inshootlarini modernizatsiya qilish, sug‘orish tadbirlari bo‘yicha kelgusi uch yil uchun qiymati 5,5 milliard dollarlik katta dastur qabul qildik”⁴. Global iqlim o‘zgarishining kuchayib borayotgan ta’siri butun dunyo mamlakatlarida aholi jon boshiga o‘rtacha yillik suv ta’minoti darajasini qisqartira boshlaydi. Shu bois barcha mamlakatlarda yer osti suv resurslaridan oqilona foydalanish masalalariga alohida e’tibor qaratilmoqda.

Ushbu dissertatsiya tadqiqoti BMTning “Transchegaraviy ochiq suv oqimlari va xalqaro ko‘llarni muhofaza qilish hamda foydalanish bo‘yicha Konvensiya”(1992), “Xalqaro suv oqimlaridan yo‘nalishsiz foydalanish huquqi bo‘yicha Konvensiya”(1997), O‘zbekiston Respublikasi Konstitutsiyasi(2023), O‘zbekiston Respublikasining Suv kodeksi(2025), “Tabiatni muhofaza qilish to‘g‘risida”gi(1992), “Ichimlik suvi ta’minoti va oqova suvlarni chiqarib yuborish to‘g‘risida”gi(2022), “Gidrotexnika inshootlarining xavfsizligi to‘g‘risida”gi(2023) Qonunlari, O‘zbekiston Respublikasi Prezidentining 2022-yil 7-dekabr “Yer osti suv resurslarini muhofaza qilish va ulardan oqilona foydalanishni tartibga solish bo‘yicha qo‘shimcha chora-tadbirlar to‘g‘risida”gi 439-son, 2023-yil 24-oktabr “Ichimlik suv ta’minoti va oqova suv tizimini yanada takomillashtirish bo‘yicha qo‘shimcha chora-tadbirlar to‘g‘risida”dagi 343-son, 2023-yil 20-iyun “Ma’muriy islohotlar doirasida suv xo‘jaligi sohasida davlat boshqaruvini samarali tashkil qilish chora-tadbirlari to‘g‘risida”gi 101-son qaror va farmonlari hamda mavzuga oid boshqa qonun hujjatlarida belgilangan vazifalarni amalga oshirishga muayyan darajada xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor

yo‘nalishlariga mosligi. Mazkur tadqiqot ishi respublika fan va texnologiyalari rivojlanishining I. “Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma’naviy-ma’rifiy rivojlantirishda innovatsion g‘oyalar tizimini shakllantirish va ularni amalga oshirish yo‘llari” dasturining ustuvor yo‘nalishiga mos keladi.

Muammoni o‘rganilganlik darajasi. Yer osti suv qonunchiligi hujjatlarini takomillashtirishga bag‘ishlangan ilmiy tadqiqotlar O‘zbekiston Respublikasida yetarli darajada o‘rganilmagan. Shu bilan birga aytish lozimki, O‘zbekistonda suv qonunchiligi hujjatlarini takomillashtirishning umumiy huquqiy jihatlarini H.Sh.Hayitov, N.Sh.Rajabov, A.O.Jumanov, Z.Sh.Shofiyevlar⁵ning ilmiy ishlarida qisman tadqiq etilgan.

³ O‘zbekiston Respublikasi Ekologiya, atrof-muhitni muhofaza qilish va iqlim o‘zgarishi vazirligi. (2023). Atrof-muhit holati to‘g‘risida milliy ma’ruza: O‘zbekiston. Barqaror rivojlanish xalqaro instituti

⁴ O‘zbekiston Respublikasi Prezidenti Shavkat Mirziyoyevning Oliy Majlis va O‘zbekiston xalqiga Murojaatnomasi 26.12.2025 (<https://president.uz/oz/lists/view/8834>)

⁵ Hayitov H.Sh. “O‘zbekiston Respublikasida suv qonunchiligining rivojlantirishi va takomillashtirish istiqbollari” mavzusidagi yuridik fanlar doktori(DSc) ilmiy darajasini olish uchun yozgan dissertatsiyasi. 2024; Rajabov N.SH. Ekologik me’yorlash tizimini huquqiy tartibga solish masalalari. Yu.f.d dissertatsiyasi. 2023; Jumanov A.O “Aholini toza ichimlik suvi bilan ta’minlashning ekologik-huquqiy muammolari” avtoreferat, 2019; Shofiyev Z.SH. “O‘zbekiston Respublikasida fermer xo‘jaliklarining suv resurslaridan foydalanishini huquqiy tartibga solish muammolari”.Nomzodlik disser. 2023.

Shuningdek, MDH davlatlari doirasida suv qonunchiligi hujjatlarini takomillashtirish masalalari Y.A.Gledko, M.M.Brinchuk, A.A.Mukasheva, A.L.Timofeyev, M.Absametov, Y.V.Novikov, A.S.Shirobokov, O.S.Kolbasov, V.V. Petrov, N.V.Kichiginlar ilmiy ishlarida umumiy asoslarda sohani u yoki bu darajada o'rganilgan bo'lsa, E.N.Muxinaning (2011) va A.Borodinaning (2018) to'g'ridan-to'g'ri yer osti suvlarini muhofazasi doir ilmiy ishlarni olib borishgan. Xorijiy mamlakatlardan Joseph W. Dellapenna, J.Grönwall, K.Danert, F.Van der Aa, M.Sophocleous, F.Pacheco, K.Conti, J.Gupta, Y.Zhang, F. Molle, S.Burchi, K.Mechlem⁶ kabi olimlarining asarlarida suv qonunchiligi muammolari tadqiq qilingan va ularning tegishli yechimlari ishlab chiqilgan.

Biroq, yangi O'zbekiston sharoitida yer osti suv qonunchiligini takomillashtirish, undagi bo'shliqlar va ichki ziddiyatlarni bartaraf etish, takomillashtirishga oid masalalarning alohida tadqiq etilmaganligi mazkur mavzuning dolzarbligidan dalolat beradi.

Dissertatsiya mavzusining dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy tadqiqot ishlari rejalari bilan bog'liqligi. Dissertatsiya mavzusi Toshkent davlat yuridik universitetining ilmiy-tadqiqot ishlari rejasiga muvofiq "Ekologik barqaror rivojlanish maqsadlariga erishish" mavzusidagi loyiha doirasida bajarilgan.

Tadqiqotning maqsadi yer osti suvlaridan xavfsiz va samarali foydalanish yuzasidan qonunchilik hujjatlarini takomillashtirish, amalga oshirilayotgan chora-tadbirlarning samaradorligini oshirish hamda muammolarni tahlil etish asosida huquqni qo'llash amaliyoti samaradorligini oshirishga oid taklif va tavsiyalar ishlab chiqishdan iborat.

Tadqiqotning vazifalari:

yer osti suvlari tushunchasi, undan oqilona foydalanish, yer osti suvlari monitoringi tushunchalarini takomillashtirish va ishlab chiqish hamda huquqiy holatini umumiy tavsiflash;

⁶ Brinchuk M. M. Legal Protection of the Environment from Pollution by Dangerous Industrial Wastes //Pace Envtl. L. Rev. – 1987; Мукашева, А. А. Теоретические и методологические проблемы водного права Республики Казахстан в современных условиях... дис. на соиск. учен. степ.д.ю.н.- Астана, 2010 - 156 с; Тимофеев Л.А. Правовые проблемы обеспечения населения России питьевой водой нормативного качества: автореф. дис. ... канд. юрид. наук. – Саратов: 2004; Absametov M. et al. Assessment of the groundwater for household and drinking purposes in central Kazakhstan //Groundwater for Sustainable Development. – 2023; Новиков Ю.В. Экология, окружающая среда и человек. Учеб. пособие. -М.:«ФАИР», 1998; Широбоков А.С Правовые основы установления и применения лимитов на выбросы и сбросы загрязняющих веществ и микроорганизмов //Юрист. 2006; Кичигин Н.В. Правовые проблемы публично-экологического контроля. Монография. М., 2012; Мухина Эвелина Николаевна. Правовое регулирование использования и охраны подземных вод. Диссертация на соискание ученой степени кандидата юридических наук. – Москва, 2011; Бородин Алина. Правовое регулирование использования и охраны подземных вод в Республике Казахстан в условиях перехода к «зеленой экономике». Диссертация на соискание ученой степени доктора философии. – Алматы, 2018; Joseph W. Dellapenna, A Primer on Groundwater Law, 49 IDAHO L. REV. 265 (2013); Grönwall, J (2022). Groundwater policy and planning; Sophocleous, Marios. "Interactions between groundwater and surface water: the state of the science." Hydrogeology journal 10.1 (2002); Conti,K, Gupta,J. "Protected by pluralism? Grappling with multiple legal frameworks in groundwater governance." Current Opinion in Environmental Sustainability 11 (2014); Zhang,Y, et al. "Changes in soil water holding capacity and water availability following vegetation restoration on the Chinese Loess Plateau." Scientific Reports 11.1 (2021); Alvar Closas, François Molle. Groundwater governance in Europe. 2016; Stefano Burchi, Kerstin Mechlem. Groundwater in international law. 2005.

yer osti suvidan foydalanish hamda muhofaza qilish sohasidagi dolzarb ekologik, ijtimoiy-siyosiy va huquqiy masalalarni ilmiy-huquqiy jihatdan keng tahlil etish;

yer osti suvidan foydalanish uchun ruxsatnomalar olish tartibi tizimli tahlil o'tkazish;

yer osti suvidan foydalanishda mavjud ekologik va huquqiy talablarni aniqlash va tizimlashtirish;

yer osti suvlaridan foydalanish va uni muhofaza qilish sohasidagi davlat nazorati mexanizmlari, yer osti suvlari monitoringini yuritishning huquqiy asoslari, ularni takomillashtirish bo'yicha taklif va tavsiyalar ishlab chiqish;

yer osti suvlari davlat kadastri yuritishning huquqiy ahamiyati, uni yaxshilash mexanizmlarini rivojlantirish;

xalqaro hujjatlar tahlili va xalqaro tajriba asosida O'zbekiston Respublikasi yer osti suv qonunchiligini takomillashtirishda foydalanish istiqbollarini o'rganish va tavsiyalar ishlab chiqish.

Tadqiqotning obyekti yer osti suvlari bilan bog'liq munosabatlarni huquqiy tartibga solish hamda bu sohadagi salbiy holatlar tufayli atrof-muhitga yetkazilishi mumkin bo'lgan zararli ta'sirlardan himoya qilish bilan bog'liq ekologik-huquqiy munosabatlar olingan.

Tadqiqotning predmeti yer osti suvlari atrof muhitga oid qonun hujjatlari, ularni qo'llash amaliyoti, sohaga oid xalqaro va xorijiy tajriba hamda yuridik fanda mavjud bo'lgan konseptual yondashuvlar va ilmiy-nazariy qarashlardan iboratdir.

Tadqiqotning usullari. Tadqiqot ishini olib borishda induksiya, deduksiya, tarixiy, mantiqiylik, tizimlilik, qiyosiy-huquqiy, statistik, azaliz, sintez kabi usullardan foydalanilgan.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

yer osti suvlariga quduqlarni qonunga xilof ravishda burg'ilash va bu orqali kelib chiqqan ekologik-huquqiy zararni kamaytirish maqsadida bu harakatlar uchun ma'muriy javobgarlikni belgilash taklifi sohadagi salbiy jarayonlarni oldini olishga xizmat qilishi asoslantirilgan;

yer osti suvlari konlari va suvli qatlamlari hamda ularning yer qa'risiga yoki yer yuzasiga sizib chiqish zonalarini yer osti suv obyektlarining toifalari qatoriga kiritish zaruriyati asoslantirilgan;

yer osti suvlarining zaxiralari O'zbekiston Respublikasi Tog'-kon sanoati va geologiya vazirligi huzuridagi Foydali qazilmalar zaxiralari bo'yicha davlat komissiyasi tomonidan qonunchilikda belgilangan tartibda tasdiqlashga oid normalarni belgilash zarurligi hamda bu sohadagi salbiy jarayonlarni oldini olishga xizmat qilishi asoslantirilgan;

yer osti suvlaridan turli ehtiyojlar uchun foydalanish O'zbekiston Respublikasi Tog'-kon sanoati va geologiya vazirligi organlari tomonidan suv xo'jaligi organlari bilan birgalikda ularning yer usti suvlari bilan o'zaro bog'liqligi hisobga olingan holda tartibga solishning ahamiyati asoslantirilgan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

yer osti suvlaridan bilan bog'liq munosabatlarda yer osti suvlari, yer osti suvlaridan oqilona foydalanish, yer osti suvlari monitoringi tushunchalariga ta'riflar

ishlab chiqilib, yer osti suvlarining huquqiy maqomini mustahkamlash yuzasidan qonunchilikka takliflar berilgan;

xorijiy davlatlar qonunchiligi tahlil etilib, yer osti suvlarini yetkazib beruvchilarning huquq va majburiyatlarini takomillashtirish, suvdan foydalanuvchilarning huquqlarini mustahkamlash hamda yer osti suvlari bilan bo'ladigan salbiy jarayonlarni oldini olishga qaratilgan takliflar tayyorlandi;

yer osti suvlari sohasida huquqbuzarliklarni turlari va unga sababiy bog'lanishlar, ularni oldini olish bo'yicha tahliliy tavsiyalar ishlab chiqildi;

yer osti suvlarni bilan bog'liq maxsus vakolatli organlar vakolatlari kengaytirish, ma'muriy va jinoyat qonunchiligiga puxta o'rganilgan yangi normalar kiritish bo'yicha fikrlar bildirildi;

mavzu doirasida "Transchegaraviy ochiq suv oqimlari va xalqaro ko'llarni muhofaza qilish hamda foydalanish bo'yicha Konvensiya", "Xalqaro suv oqimlaridan yo'nalishsiz foydalanish huquqi bo'yicha Konvensiya" hamda qator Yevropa Kengashining direktivalari asosida xalqaro standartlarni milliy qonunchiligimizga implementatsiya qilish masalalari yuzasidan takliflar berildi.

Tadqiqot natijalarining ishonchliligi. Tadqiqot natijalari milliy qonunchilik normalari, huquqni qo'llash amaliyoti materiallari, xalqaro va xorijiy mamlakatlarning qonunchiligi normalarining tahlil qilinganligi, rasmiy manbalar hamda ilmiy adabiyotlarga asoslanganligi, olingan xulosalar hamda takliflarning joriy etilganligi tegishli davlat organlari tomonidan tasdiqlanganligi bilan izohlanadi.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqot ishining ilmiy ahamiyati undagi ilmiy-nazariy xulosalar, taklif va tavsiyalardan kelgusi ilmiy faoliyatda, qonun ijodkorligida, huquqni qo'llash amaliyotida, ekologik masalalarda huquqiy yordamni amalga oshiruvchi maxsus vakolatli davlat organlarining faoliyatida tegishli qonunchilik normalarini sharhlashda, milliy qonunchilikni takomillashtirishda hamda "Xalqaro ekologiya huquqi", "Suv huquqi", "Transchegaraviy suvlar huquqi" fanlarini ilmiy-nazariy jihatdan yanada boyitishda foydalanish mumkinligida namoyon bo'ladi. Tadqiqot ishining nazariy asoslariga tayanish kelgusida yer osti suvlarining xalqaro-huquqiy jihatdan tartibga solinishi bilan bog'liq yangi ilmiy izlanishlarni olib borish, yer osti suvlari sohasida shartnomaviy va institutsional mexanizmlarni takomillashtirish hamda xalqaro-huquqiy normalarni milliy qonunchilikka implementatsiya qilish bo'yicha amaliy takliflar ishlab chiqishga zamin yaratadi.

Tadqiqot natijalarining amaliy ahamiyati yer osti suvlarini muhofaza qilish va undan foydalanishda huquqni qo'llash amaliyotini rivojlantirishda, yer osti suvlari uchun hisoblagichlar o'rnatish, undan foydalanishda zamonaviy texnologiya va usullarini qo'llash sohasidagi qonun hujjatlarini inventarizatsiyadan o'tkazishda, shuningdek mazkur yo'nalishda tegishli vakolatga ega davlat organlari va tashkilotlarning yer qo'ridan foydalanish uchun xulosa olishdan boshlab to uni to'laonli ishga turishgacha jarayonidagi faoliyatini takomillashtirishga bag'ishlangan qonun hujjatlari, yer osti suvlari bilan bog'liq barcha jarayonlarini qamrab olgan normativlarni tahlil etgan holda, qator qonun va qonunosti hujjatlariga asoslangan takliflar berildi.

Tadqiqot natijalarining joriy etilganligi. Yer osti suvlaridan foydalanish va muhofaza qilishning huquqiy holatini tadqiq etish yuzasidan olingan natijalar asosida:

yer osti suvlariga quduqni qonunga xilof ravishda burg'ilash uchun javobgarlikni belgilanish masalasida taklifidan O'zbekiston Respublikasining 2025-yil 5-maydagi O'RQ-1062-sonli Qonuni 1-moddasi 1-bandi bilan Ma'muriy javobgarlik kodeksning 74-moddasi to'rtinchi qismiga kiritilgan o'zgartirishni shakllantirishda foydalanilgan (O'zbekiston Respublikasining Oliy Majlisi Qonunchilik Palatasi huzuridagi Parlament tadqiqotlari instituti 2025-yil 23-sentabrdagi №9/dn-188-son dalolatnomasi). Bu taklif bilan noqonuniy yer osti suvlarini burg'ilash uchun javobgarlik belgilangan;

suv obyektlarining toifalari qatoriga yer osti suvlari konlari va suvli qatlamlari hamda ularning yer qa'risiga yoki yer yuzasiga sizib chiqish zonalari ham kiritilishi kerakligiga oid taklifidan O'zbekiston Respublikasining 2025-yil 30-iyuldagi O'RQ-1076-sonli Qonuni 1-moddasi bilan Suv kodeksining 8-moddasi ikkinchi qismi ikkinchi xatboshini shakllantirishda foydalanilgan (O'zbekiston Respublikasining Oliy Majlisi Qonunchilik Palatasi huzuridagi Parlament tadqiqotlari instituti 2025-yil 29-dekabrdagi №3/dn-273-son dalolatnomasi). Ushbu taklif yer osti suvlari muhofazasi doirasini to'laonli belgilashga xizmat qilgan;

yer osti suvlarining zaxiralari O'zbekiston Respublikasi Tog'-kon sanoati va geologiya vazirligi huzuridagi Foydali qazilmalar zaxiralari bo'yicha davlat komissiyasi tomonidan qonunchilikda belgilangan tartibda tasdiqlashga oid taklifidan O'zbekiston Respublikasining 2025-yil 30-iyuldagi O'RQ-1076-sonli Qonuni 1-moddasi bilan Suv kodeksining 123-moddasi birinchi qismini shakllantirishda foydalanilgan (O'zbekiston Respublikasining Oliy Majlisi Qonunchilik Palatasi huzuridagi Parlament tadqiqotlari instituti 2025-yil 29-dekabrdagi №3/dn-273-son dalolatnomasi). Ushbu taklif O'zbekiston Respublikasi Tog'-kon sanoati va geologiya vazirligi huzuridagi Foydali qazilmalar zaxiralari bo'yicha Davlat komissiyasi vakolatlarini ko'rsatib, uni sohadagi ahamiyatini belgilashga xizmat qilgan;

yer osti suvlaridan turli ehtiyojlar uchun foydalanish O'zbekiston Respublikasi Tog'-kon sanoati va geologiya vazirligi organlari tomonidan suv xo'jaligi organlari bilan birgalikda ularning yer usti suvlari bilan o'zaro bog'liqligi hisobga olingan holda tartibga solishga oid taklifidan O'zbekiston Respublikasining 2025-yil 30-iyuldagi O'RQ-1076-sonli Qonuni 1-moddasi bilan Suv kodeksining 123-moddasi ikkinchi qismi ikkinchi xatboshini shakllantirishda foydalanilgan (O'zbekiston Respublikasining Oliy Majlisi Qonunchilik Palatasi huzuridagi Parlament tadqiqotlari instituti 2025-yil 29-dekabrdagi №3/dn-273-son dalolatnomasi). Ushbu taklif yer osti suvlari muhofazasi kuchaytirishga hamda belgilanmagan maqsadlarda foydalanishni cheklashga xizmat qilgan.

Tadqiqot natijalarining aprobatsiyasi. Mazkur tadqiqot natijalari 11 ta ilmiy-amaliy anjumanda, jumladan 5 ta xalqaro, 6 ta respublika ilmiy-amaliy anjumanlarda muhokamadan o'tkazilgan.

Tadqiqot natijalarining e'lon qilinganligi. Dissertatsiya mavzusi doirasida jami 17 ta ilmiy ish, shu jumladan monografiya, 10 ta ilmiy maqola (shundan 5 tasi

xorijiy jurnallarda), to'plamlarda 7 ta maqola va tezislar (3 tasi xalqaro ilmiy-amaliy konferensiya materiallari to'plamida) chop etilgan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiya kirish, 3 bob, xulosa, foydalanilgan adabiyotlar ro'yxati va ilovalardan iborat. Dissertatsiyaning hajmi 131 betni tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiya ishining kirish qismida ilmiy-tadqiqot mavzusining dolzarbligi va zarurati asoslantirilgan, tadqiqotning maqsadi va vazifalari, obyekti va predmeti yoritilgan, shuningdek, dissertatsiyaning mavzusi bo'yicha xorijiy ilmiy tadqiqotlar sharhi, respublika fan va texnologiyalarini rivojlantirishning ustuvor yo'nalishlariga mosligi asoslantirilgan, muammoning o'rganilganlik darajasi, mavzuning dissertatsiya bajarilayotgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari rejasi bilan aloqadorligi, usullari, ilmiy va amaliy ahamiyati ochib berilgan, Shuningdek, tadqiqotlar natijalarining amaliyotga joriy qilinishi aprobatsiyasi, nashr etilgan ishlar va dissertatsiyaning hajmi haqida ma'lumotlar keltirilgan.

Dissertatsiyaning **“Yer osti suvidan foydalanish va muhofaza qilishning umumiy yuridik tavsifi”** deb nomlangan birinchi bobida yer osti suvlarining bugungi kunda dunyo ekotizimidagi ahamiyati, aholining ichimlik suvi bilan ta'minlashdagi muhim o'rni, uni huquqiy muhofazasini kuchaytirish masalalari, shuningdek mazkur sohadagi milliy olimlar H.Sh.Hayitov, N.Sh.Rajabov, A.O.Jumanov, Z.Sh.Shofiyevlar, shuningdek xorijiy olimlar E.N.Muxina, E.Borodinalarning ilmiy ishlari o'rganilib, ularning tahlili asosida shaxsiy qarashlar ilgari surilgan.

Tahlil natijasida dissertant yer osti suvlarining ekologik-huquqiy munosabatlar obyekti sifatidagi mazmun-mohiyati, ulardan foydalanishning tarixiy rivojlanishi hamda xalqaro konsepsiya va doktrinalarning nazariy asoslari tahlil qilingan. Shuningdek, yer osti suvlaridan foydalanish va muhofaza qilishning ijtimoiy-iqtisodiy hamda ekologik-huquqiy ahamiyati, fuqarolarning suvga bo'lgan ehtiyojini ta'minlashdagi o'rni, ekologik xavfsizlikni kafolatlash mexanizmlari va milliy qonunchilikni takomillashtirishning dolzarb masalalari ilmiy jihatdan yoritilgan.

Birinchi bobning birinchi paragrafi *“Yer osti suvlari ekologik-huquqiy munosabatlar obyekti sifatida”* deb nomlanib, unda yer osti suvlaridan foydalanish tadrijiy-tarixiy taraqqiyoti, shunindek, yer osti suvlaridan foydalanishga oid qator konsepsiya va doktrinalar turlari, ularni bir-biridan farqli tomonlari, ijobiy va salbiy taraflari, mamlakatimizda ushbu konsepsiya va doktrinalarni qo'llashdagi kamchiliklar hamda ularni takomillashtirish masalalari yoritilgan.

Dissertant ilmiy yondashuvlar asosida yer osti suvlari tushunchasiga yuridik tavsifni takomillashtirish masalalari, yer osti suvlarini yer osti boyliklari qatoriga kiritish zaruriyati, yer osti suvlari obyekti doirasi belgilash ahamiyati, yer osti suvlariga doir tamoyillari, yer osti suvlari bilan bog'liq ekologik xavfsizlikni ta'minlashning xalqaro huquqiy asoslari, yer osti suvlaridan foydalanishda atrof-muhitni muhofaza qilish bo'yicha institutsional milliy-huquqiy tizimni ishlab chiqish masalalari ilmiy tahlil qilingan.

Birinchi bobning ikkinchi paragrafi “*Yer osti suvlaridan foydalanish va muhofaza qilish tartibining ijtimoiy-iqtisodiy hamda ekologik huquqiy ahamiyati*” deb nomlanib, yer osti suvlarining hayotning turli sohalari rivojida o‘rni, fuqarolarning ekologik huquqlarini ta’minlashni bir shakli sifatida yer osti suvlarga bo‘lgan ehtiyojini qondirish masalasi, yer osti suvlari turlari va bugunning rivojida o‘rni tahlil qilingan. Dissertant yer osti suvlari qimmatbaho mineral boylik ekanligi, mamlakat va odamlar hayotida, shuningdek ishlab chiqaruvchi kuchlarning rivojlanishida g‘oyat muhim rol tutishini ko‘rsatib bergan.

Paragraf yakunida dissertant yer osti suvlari tushunchasi yakdil ta’rif berilmaganligi va turlaridan kelib chiqib, uni muhofaza mexanizmlari turlicha ekanligini ta’kidlab, o‘zining muallifligidagi tushunchaga ta’rif bergan holda barcha yer osti suvlarini samarali himoyani amalga oshirish uchun qonunchilikni takomillashtirish va bu yo‘nalishda yakdil mexanizm ishlab chiqish zarurligi haqida xulosa qiladi.

Dissertatsiyaning “**Yer osti suvlaridan foydalanish va muhofaza qilishning tashkiliy-huquqiy mexanizmi**” deb nomlangan ikkinchi bobida yer osti suvlari bilan bog‘liq munosabatlarni davlat boshqaruvi yo‘li bilan huquqiy tartibga solish mexanizmlar va ularning samaradorligi yoritib berilgan. Bunda yer osti suvlaridan foydalanishga ruxsat berish tartibi, uning ekologik talablari, sohadagi nazorat, monitoring va kadastr yuritishning ahamiyati hamda huquqbuzarliklarni oldini olishdagi o‘rni tadqiq qilingan.

Xususan, “*Yer osti suvlaridan foydalanishga ruxsat berish tartibi*” deb nomlangan birinchi paragrafda yer osti suvlaridan maxsus foydalanish va iste’mol qilish uchun ruxsatnoma olishda belgilangan talablar, ularni ahamiyati, rivojlantirish va yangi mexanizmlar yaratish zaruriyati kabi masalalar yoritib berilgan.

Tahlil natijasida dissertant xorijiy ilg‘or davlatlarning ruxsat berish mexanizmlari asosida to‘liq tahlil etgan holda uni milliy qonunchiligimizga joriy etish lozimligi asoslab berish bilan birga ruxsatnomasiz yer osti suvlaridan maxsus foydalanganlik holatlariga chek qo‘yish zaruriyati va uni kelgusidagi muhim ahamiyati ochib berilgan.

Ikkinchi bobning “*Yer osti suvlaridan foydalanishda ekologik talablar*” deb nomlangan ikkinchi paragrafida dissertant yer osti suvlaridan foydalanishga qo‘yilgan ekologik talablari, normativlar va me’yor bilan bog‘liq xalqaro hamda milliy ekologik standartlarni tahlil qilgan. Yer osti suvlaridan oqilona foydalanishga oid ilmiy o‘rganishlar, ekologik talablarni bajarmaslik holatlarini keltirib chiqayotgan omillarning ilmiy-nazariy tahlili va ularni bartaraf etishning institutsional asoslari ko‘rsatilgan.

Ikkinchi bobning “*Yer osti suvlaridan foydalanish va uni muhofaza qilish sohasidagi davlat nazorati*” deb nomlangan uchinchi paragrafida yer osti suvlaridan foydalanish va uni muhofaza qilishda davlat nazaratining o‘rni va ahamiyati yoritilishi bilan birga maxsus vakolatli davlat organi, ya’ni O‘zbekiston Respublikasi Tog‘-kon sanoati va geologiya vazirligi huzuridagi Tog‘-kon sanoati va geologiya sohasini nazorat qilish inspeksiyasi vakolatlarini kengaytirish va samarali nazoratni amalga oshirish yuzasidan moddiy-texnik hamda kadrlar masalasiga oid muammolar tanqidiy tahlil etilgan.

Ikkinchi bobning to'rtinchi paragrafi *“Yer osti suvlari monitoringini yuritishning huquqiy tartibi”* deb nomlanib, tadqiqotchi tomonidan yer osti suvlari monitoringi ahamiyati, turlari, bir-biridan farqli tomonlari, tarkibi, monitoring institutini xalqaro standartlarga moslash talablari, Smart water texnologiyalarini joriy etish imkoniyatlari, gidrologik postlar faoliyatini qo'llab-quvvatlash bilan bog'liq huquqiy tartiblar haqida xulosa qilindi.

Ikkinchi bobning beshinchi paragrafi *“Yer osti suvlari davlat kadastri va uning innovatsion texnologiyalari”* deb nomlanib, Davlat suv kadastri yuritishning huquqiy asoslari, uni ahamiyati, suv obyektlari, suv resurslari, suv rejimi, sifati haqidagi axborotlarni yuritish tartibi, shuningdek, suvdan foydalanuvchilar, suv iste'molchilari hisobini yuritish, raqamlashtirish, shaffof axborot tizimini yaratish, geoaxborot texnologiyalarini joriy etish hamda prognozlash aniqligini oshirish va bu orqali tizim samaradorligini oshirish mumkinligini asoslab beradi.

Paragraf yakunida dissertant xalqaro hamjamiyat tomonidan yer osti suvlari haqida ma'lumotlar almashinuvida kamchiliklar aniqlanib, kelgusida samarali yer osti suvlarining huquqiy muhofazasini amalga oshirishda milliy va mintaqaviy darajada qonunchilikni uyg'unlashtirish va bu yo'nalishda xalqaro huquqiy asoslarni mustahkamlash zarurligi haqida xulosa qilindi.

Dissertatsiyaning uchinchi bobi **“Yer osti suvlaridan foydalanish va muhofaza qilishni takomillashtirishning ilmiy-nazariy masalalari”** deb nomlanib unda yer osti suvidan foydalanish va muhofaza qilish sohasiga oid xalqaro doiradagi hujjatlar tahlili, xalqaro maydonda yer osti suvlari bilan bog'liq munosabatlarni o'zgarib borishi, yer osti suvlariga qo'yilgan xalqaro standartlar, shuningdek, BMTning ixtisoslashtirilgan tashkilotlari: Jahon sog'liqni saqlash tashkiloti(WHO), Jahon oziq-ovqat va qishloq xo'jaligi tashkiloti(FAO), Birlashgan Millatlar Tashkilotining Bolalar jamg'armasi(UNICEF), Birlashgan Millatlar Tashkilotining Atrof-muhit bo'yicha dasturi(UNEP), Jahon Mehnat Tashkiloti(ILO), Jahon Savdo Tashkiloti(WTO), Birlashgan Millatlar Tashkilotining Xalqaro rivojlanish agentligi(UNDP)ning yer osti suvlarini xalqaro doirada muhofazasidagi o'rni va ahamiyati o'rganiladi.

Xususan, *“Yer osti suvlaridan foydalanish va muhofaza qilishni takomillashtirishda xalqaro hujjatlarni o'rni va ahamiyati”* deb nomlangan birinchi paragrafda yer osti suvlarining xalqaro muhofazasiga bag'ishlangan Transchegaraviy ochiq suv oqimlari va xalqaro ko'llarni muhofaza qilish hamda foydalanish bo'yicha Konvensiya va Xalqaro suv oqimlaridan yo'nalishsiz foydalanish huquqi bo'yicha Konvensiyasining ahamiyati, undagi qoidalarni milliy qonunchiligimizga implementatsiya qilish zaruriyati batafsil yoritilgan. Shuningdek, yer osti suvlariga oid xalqaro talablar, ularni dunyo davlatlari qonunchiligida aks etishi bilan bog'liq masalalar yuzasidan xulosa qilinadi.

Uchinchi bobning *“Yer osti suvlaridan foydalanish va muhofaza qilish sohasiga oid milliy qonun hujjatlarini takomillashtirish zaruriyati”* deb nomlangan ikkinchi paragrafida dissertant yer osti suvlari bilan bog'liq milliy qonunchilikdagi prinsiplari takomillashtirish zaruriyati; yer osti suvlari huquqiy muhofazasida ilg'or tajribaga ega davlatlar: Germaniya, Ukraina, Ozarbayjon kabi davlatlardagi zamonaviy tendensiyaning implementatsiya qilish mohiyati yoritilgan. Bu orqali Suv

kodeksi va boshqa yer osti suvlari bilan bog'liq qonunchilikni mustahkamlash va jahon standartlariga moslashtirishga xizmat qilgan.

Paragraf yakunida dissertant yer osti suvlari xalqaro miqyosda eng nozik va zaif ekologik obyekt ekanligi, unga yetkazilgan zarar bartaraf etish murakkabligi, sohadagi huquqbuzarliklarni ko'pincha aniqlash qiyinligini ta'kidlab, O'zbekiston Respublikasi bu sohadagi huquqiy-amaliy ishlarni jadallashtirish zaruriyati tavsiflangan. Bunda milliy qonunchilikka implementatsiya masalalari ilmiy-nazariy jihatdan tadqiq etilgan. Shuningdek, yer osti suvlari muhofazasi faoliyatida Yevropa Ittifoqi, AQSH, Yaponiya va boshqa davlatlar qonunchiliklari o'rganilgan holda qonunchilikni takomillashtirishga qaratilgan takliflar ishlab chiqildi hamda qonunchilikka o'zgartirish va qo'shimchalar kiritish to'g'risida qonun loyihasiga takliflar berilgan.

XULOSA

Yer osti suvlaridan foydalanish va ularni muhofaza qilishning huquqiy holati tadqiqot ishi natijasida quyidagi ilmiy-nazariy, qonunchilikni takomillashtirish hamda huquqni qo'llash amaliyotini takomillashtirishga taklif va xulosalar ishlab chiqildi:

I. Ilmiy-nazariy taklif va xulosalar:

1) Bugungi kunda yer osti suvlaridan foydalanishda qator konsepsiya va doktrinalar mavjud. Bular: Absolute dominion (Yer egasi o'z yer uchastkasi ostidagi yer osti suvlari ustidan mutlaq nazoratga ega bo'lib, ularni istalgan miqdorda, ruxsatnomasiz qazib olishi va foydalanishi mumkin, hatto buning natijasida qo'shni yer egalari zarar ko'rishi mumkin), Correlative rights (Bir yer osti suv havzasiga nisbatan huquqqa ega bo'lgan barcha yer egalari yer osti suvlari resurslaridan adolatli va mutanosib ravishda foydalanish huquqiga ega), The reasonable use rule (yer osti suvlaridan foydalanishning qonuniyligini uning oqilonaligi, maqsadi, hajmi va boshqa foydalanuvchilarga hamda atrof-muhitga ta'siri asosida baholovchi huquqiy doktrinadir), Appropriative rights ("birinchi kelgan – birinchi oladi" prinsipi, ya'ni suv resurslaridan foydalanish huquqi suvni birinchi bo'lib, qonuniy va foydali maqsadda o'zlashtirgan shaxsga tegishli bo'lishini hamda ushbu huquq keyingi foydalanuvchilarga nisbatan ustuvor hisoblanishini nazarda tutuvchi huquqiy doktrina), Regulated riparianism (suv resurslaridan foydalanish huquqi yer egaligi bilan bog'liq bo'lishiga qaramasdan, ushbu huquqlar davlat tomonidan litsenziyalash, ruxsatnoma berish va ekologik hamda ijtimoiy manfaatlar asosida qat'iy tartibga solinadigan zamonaviy suv huquqi doktrinasidir).

2) Respublikamizda yer osti suvlaridan foydalanishga oid qonunchilik hujjatlari The reasonable use va Regulated riparianism doktrinalari asosiga qurilgan bo'lib, boshqa doktrinalarning qisman elementlarini ham ko'rishimiz mumkin. Masalan, yer osti suvlaridan foydalanishga maxsus ruxsatnomalar berishda Appropriative rights ("birinchi kelgan – birinchi oladi" prinsipi) doktrinasi qo'llaniladi. Yer osti suvlaridan foydalanishda yer kimniki bo'lishidan qat'iy nazar, belgilan tartibda ruxsatnoma olish talab etiladi, ya'ni yer egasi (foydalanuvchisi) yer osti suvlariga egalik qila olmaganidek, yer osti suvlardan foydalanuvchi yer osti qudug'i joylashgan yerga egalik qila olmaydi. Bizningcha, O'zbekiston

Respublikasi tomonidan The reasonable use va Regulated riparianism doktrinalari tanlanganligi maqsadga muvofiq bo'lib hisoblanadi.

3) The reasonable use (oqilona, maqsadga muvofiq foydalanish) doktrinasi to'laqonli ishlashi uchun bir qancha takliflar ilgari suriladi: zarur bo'lgan yer usti suv manbalari bo'lmagan hamda yer osti chuchuk suvlarining yetarli zaxiralari bo'lgan hududlarda tasdiqlangan limitlarga muvofiq tog'-kon sanoati va geologiya organlari ushbu suvlardan ichimlik va xo'jalik-maishiy suv ta'minoti bilan bog'liq bo'lmagan maqsadlar uchun foydalanishga ruxsat berish haqidagi tartiblarni bekor qilish; yer osti chuchuk suvlarini faqat ichimlik va xo'jalik-maishiy suv ta'minoti bilan bog'liq masalalarda foydalanish zarur. Regulated riparianism doktrinasi amalga oshirishda yer qa'ridan foydalanuvchilar yer osti suvlari bilan bog'liq har qanday harakatlari uchun belgilangan tartibda ruxsat olish tartibini joriy etish lozim.

4) Yer qa'ri bilan bog'liq ishlarni amalga oshiruvchilarning majburiyatlarini kuchaytirish, hisobdorligini oshirish maqsadida qator takliflar ilgari surilmoqda. Xususan, qazilma ishlarini amalga oshirish chog'ida yer osti suv qatlamlari aniqlansa, foydali qazilmalarni qazib oluvchi tashkilotlar bu haqda darhol tegishli ijro etuvchi hokimiyat organlarini xabardor qilishi va belgilangan tartibda yer osti suvlarini muhofaza qilish choralarini ko'rishi (yoki yer osti suvlarini chiqarib tashlash texnikasiga ega bo'lsa, alohida ruxsatnoma olishi) shartligi qoidasi taklif etiladi. Bu esa kelgusida yer osti suvlari bilan munosabatlarni ehtiyotkorlik bilan olib borish, ma'suliyatni oshirishga xizmat qiladi.

5) Insonning yashash huquqini tom ma'noda zarur miqdor va sifatdagi toza ichimlik suviga ega bo'lish huquqini ta'minlamasdan amalga oshirib bo'lmaydi. Demak, insonning toza ichimlik suviga ega bo'lish huquqi uning mutloq va daxlsiz huquqi hisoblanadi, shuning uchun ushbu huquqni uning asosiy huquq va erkinliklari sifatida konstitutsiyaviy maqomda o'rnatilishi lozim bo'lgan ajralmas tabiiy huquqi sifatida e'tirof etish o'rinlidir. Shuningdek, Inson huquqlari umumjahon Deklaratsiyasiga insonlarning ekologik huquqlari, shuningdek "toza va sifatli ichimlik suviga ega bo'lish" huquqini ham kiritish lozim. Buni quyidagicha ta'riflasak bo'ladi: har bir insonning hayoti va sog'lig'ini ta'minlash uchun zarur bo'lgan, sanitariya-gigiyena talablariga javob beradigan, xavfsiz va yetarli miqdordagi ichimlik suviga erkin hamda kamsitilmasdan foydalanish huquqidir. Shuningdek, Iqtisodiy, ijtimoiy va madaniy huquqlar qo'mitasining Inson huquqlari bo'yicha Komissarining 2003-yildagi 15-sonli qarori 2-moddasi⁷da ham "Insonlar shaxsiy va kundalik ehtiyojlari uchun yetarli, xavfsiz, sotib olish qobiliyatiga ega bo'lgan darajada suv olish huquqiga ega" deb belgilangan. Yangi O'zbekiston Konstitutsiyasida belgilangandek, ijtimoiy davlat mohiyatini yana bir isboti sifatida bu huquqni kiritilish zarur. Buni ta'minlash davlat va boshqaruv organlari oldiga muhim ma'suliyatni yuklab, soha barqarorligiga xizmat qiladi.

6) Yer osti suvlari bilan bog'liq munosabatlarda soha vakillarining bilimini oshirish, xavfsiz munosabatlarni o'rnatilishi bugunning talabidir. Shu sababli, geologiya sohasida faoliyat yuritayotgan universitetlarda konchilik huquqini o'tilishi zarur. Chunki, geolog mutaxassis nafaqat yer qa'rini o'rganadi, balki foydali qazilmalarni qidirish, baholash va o'zlashtirish jarayonlarida ham ishtirok etadi. Bu jarayonlar esa bevosita huquqiy me'yorlar bilan tartibga solinadi. Bu orqali

⁷ <https://www.refworld.org/legal/general/cescr/2003/en/39347>

mutaxassislarning huquqiy bilimini chuqurlashtirish, fanni rivojlantirishga xizmat qiladi. Geologiya yo‘nalishidagi universitetlarda konchilik huquqini o‘qitish – bu faqat nazariy bilim emas, balki amaliy faoliyat uchun zaruriy asosdir. U mutaxassislarning qonuniy, xavfsiz va samarali ishlashini ta‘minlaydi hamda mamlakat iqtisodiy rivojiga hissa qo‘shadi.

7) Mamlakatimizda yer usti va yer osti suvlarini nazorat qiluvchi davlat tashkilotlari turlicha bo‘lib, ularning nazorat doirasini aniq belgilash zarur. Bu turli tushunmovchiliklar va sansolorliklarni oldi olinishiga erishiladi. Yer osti suvlariga quyidagicha ta‘rif berish taklif etiladi: “Yer osti suvlari — yer sathidan pastda, suvlik hududlarda suv tubidan quyida yer qobig‘ining tog‘ jinslari qatlamlarida joylashgan suvlar bo‘lib, sun‘iy yaratilgan suv havzalari bundan mustasno”. Bunda suv obyektlari hududlarida suv tubidan quyida, ya‘ni yer qobig‘i boshlangan qismidan boshlab joylashgan suvlar yer osti suvlariga taalluqli ekanligini anglatmoqda. Bundan tashqari, yer ostida sun‘iy yaratilgan suv havzalari esa yer osti suvlariga emas, balki yer usti suvlari obyektlari qatoriga kiritishi haqida fikr bildirilgan.

8) Sohani yuqorida darajada yaxshi o‘zlashtirishda tushunchalarga to‘laonli ta‘rif berilishi muhim o‘rin tutadi. “Tabiatni muhofaza qilish to‘g‘risida”gi qonunda “Tabiiy resurslardan oqilona foydalanish” tushunchasi yigirma marta takrorlangan, lekin unga ta‘rif berilmagan. Quyidagicha ta‘rif taklif etiladi: “Tabiiy resurslardan oqilona foydalanish – fuqarolarning qulay atrof tabiiy muhitga ega bo‘lish huquqini ta‘minlash va atrof tabiiy muhitni muhofaza qilish maqsadida ulardan belgilangan limit va me‘yorlar, rivojlangan ilm-fan tavsiyalari asosida foydalanish orqali hozirgi va kelajak avlod manfaatlari uchun ekologik xavfsizlik talablariga rioya etishga qaratilgan faoliyatdir”. Bu bilan tabiat obyektlarini muhofazasi yaxshilash yo‘lida bu tushunchaga ta‘rif berishimiz zarur. Bu bilan tabiiy resurslardan oqilona foydalanishni ekolog olimlar, tabiatni muhofazasi bilan shug‘ullanuvchi mutaxassislarning fikrlarini tahlil etgan holda ochib berildi.

9) Suv kodeksida “Suvdan oqilona foydalanish” tushunchasi yigirmadan ortiq marta takrorlangan, lekin unga ta‘rif berilmagan. Dissertatsiya ishida suvdan oqilona foydalanishning ilmiy ta‘rifi ishlab chiqildi. Quyidagicha ta‘rif taklif etiladi: “Suvdan oqilona foydalanish – fuqarolarning belgilangan maqsadlarda yaroqli suv resurslariga ega bo‘lish huquqini ta‘minlash maqsadida ulardan belgilangan limit va me‘yorlar, rivojlangan ilm-fan tavsiyalari hamda suv tejovchi ilg‘or texnologiyalar asosida foydalanish orqali hozirgi va kelajak avlod manfaatlari uchun suv bilan bog‘liq ekologik xavfsizlik talablariga rioya etishga qaratilgan faoliyatdir”. Bu suv obyektlari muhofazasida muhim o‘rin tutgan holda, suvlardan maqsadli foydalanish va isrofgarchiliklarni oldini olish rivojiga xizmat qiladi.

10) Tabiiy resurslarni muhofazasi, ularni nazoratida yer osti suvlari davlat monitoringi instituti muhim o‘rin tutadi. Milliy qonunchiligimizda yer osti suvlari monitoringi tushunchasiga ta‘rif berilmagan. Shu sababli sohani yaxshilash yo‘lida aniq ta‘rif ishlab chiqish taklif etilmoqda. “Yer osti suvlari monitoringi – yer osti suvlarini ifloslanish darajasini aniqlash, ularning ekologik holatini baholash, salbiy jarayonlarning oqibatlarini prognoz qilish, bartaraf etish maqsadida yer osti suvlari holatini, ularning ifloslanish va antropogen faoliyatning boshqa zararli ta‘sirlari (jarayonlari) tufayli o‘zgarishini hamda ulardan foydalanishni belgilangan me‘zonlar bo‘yicha muntazam kuzatish tizimidir”. Darhaqiqat, yer osti suvlarining

tarkibi, holati, miqdori haqida aniq ma'lumotlarga ega bo'lmasdan turib, ko'rilayotgan chora-tadbirlar o'z samarasini bermasligi, aksincha yomonlashuviga ham olib kelishi mumkin. Bu esa yer osti suvlarini ichimlik suvidagi ulushi sezilarli ekanligi, ularni inson salomatligidagi o'rni muhimligi tufayli doimiy va uzluksiz monitoring rivojida tushunchani ishlab chiqish zaruriyatini tashkil etmoqda.

11) Suv resurlariga yetkazilgan zararni qoplash bo'yicha sud amaliyotini o'rganish, bu turdagi nizolarni hal etish bo'yicha yagona tartib mavjud emasligidan dalolat beradi. Bu suv munosabatlari sohasida huquqbuzarliklar natijasida yetkazilgan zarar miqdorini aniqlashda qiyinchiliklarni tug'dirmoqda. Mamlakatimizda hayvonot dunyosiga yetkazilgan zarar uchun jarimalar miqdorini aniqlash bo'yicha taksalar ishlab chiqilgan. Biroq, suv resurlariga yetkazilgan zararni qoplash bo'yicha taksalar mavjud emas. Shu bois O'zbekiston Respublikasida suv resurslariga, xususan yer osti suvlariga yetkazilgan zarar uchun jarima miqdorini aniqlash bo'yicha taksalar ishlab chiqilishi lozim.

II. Tadqiqot natijalari bo'yicha – qonunchilik normalarini takomillashtirish maqsadida quyidagi taklif va xulolalar ishlab chiqildi:

1) O'zbekiston Respublikasining Suv kodeksi 57-moddasi 3-qismini chiqarib tashlash taklif etiladi:

“Tasdiqlanmagan zaxiralardagi foydalanishga yaroqli bo'lgan yer osti suvlaridan foydalanishda guruhli suv olish inshootlari uchun suvdan maxsus foydalanish uchun ruxsatnoma ikki yildan ko'p bo'lmagan muddatga beriladi”.

Ushbu taklif normani chiqarib tashlash maqsadga muvofiq bo'lib, zaxirasi o'lchanmagan yoki tasdiqlanmagan yer osti suvlaridan 2 yilgacha foydalanish mexanizmi kelgusi avlodni suv bilan ta'minlash huquqi xavf osti qo'yadi, shunindek ulardan oqilona va samarali foydalanish qoidalariga zid hisoblanadi. Yer osti suv zahirasi haqida yetarli yoki aniq ma'lumotga ega bo'lmasdan turib, undan maxsus foydalanishga berish ekologik huquq prinsiplariga zid hisoblanadi.

2) “Yer qa'ri to'g'risida”gi qonunning 3-moddasidagi foydali qazilmalar tushunchasini quyidagicha tahrirlash taklif etiladi:

“Foydali qazilmalar – yer qa'ridagi kelib chiqishi noorganik va organik bo'lgan qattiq, suyuq yoki gazsimon holatdagi tabiiy mineral hosilalar, shu jumladan yer osti suvlari, sho'r ko'llarning tuz eritmalari”.

Bu ta'rifdagi orqali “sanoat ahamiyatiga molik yer osti suvlari” atamasini o'rniga “yer osti suvlari”ga almashtirish tirilgan. Yer osti suvlari mineral, termal va sanoat ahamiyatiga molik suvlardan iborat bo'lib, o'zgartirish orqali faqatgina sanoat ahamiyatiga molik yer osti suvlarinigina emas, balki barcha turdagi yer osti suvlarini bir xil tartibda to'laonli muhofazasini kuchaytirish hamda qonunchilikdagi tushunmovchiliklarni oldini olish uchun muhim hisoblanadi.

3) “Yer qa'ri to'g'risida”gi qonunning 4-moddasida quyidagi yer qa'ridan foydalanish prinsiplarini kiritish taklif etiladi:

xavflarni boshqarish (Risk-management);

barqaror rivojlanish.

Bu prinsiplarini qo'shish maqsadga muvofiq bo'lardi. Foydali qazilmalar bilan bog'liq munosabatlarda belgilangan asosiy prinsiplar qatori ikkita yangi prinsipni qo'shish va uni qonunchikka singdirish orqali nafaqat tabiiy resurslardan foydalanuvchilarni huquqiy himoyasi, atrof-muhitni muhofazasigina emas, balki

xorijiy investorlarni qazilma ishlari amalga oshirishda talabgorlar ro'yxatida ko'payishi, mamlakatimizda iqtisodiy salohiyatini oshishiga, aholining yalpi ichki mahsulot ishlab chiqarishini ko'payishiga, sanoatni mustahkamlashuviga va yashash sharoitlarini o'sishiga xizmat qiladi.

4) O'zbekiston Respublikasining Suv kodeksi 57-moddasiga 3-qism sifatida quyidagi bandni kiritish taklif etiladi:

“Yuridik shaxslar va jismoniy shaxslarning yer osti suvlari holatiga zararli ta'sir ko'rsatuvchi harakatlari tufayli kelib chiqqan xarajatlar, paydo bo'lgan xavfli holatni oldini olishga qaratilgan kuzatuv qudug'i faoliyatining va boshqa chiqimlarni undirish aybdor yuridik shaxslar va jismoniy shaxslarning mablag'lari hisobidan amalga oshiriladi”.

Bu taklif orqali aholi salomatligini muhofaza qilish, suv resurslaridan xavfsiz foydalanishni ta'minlash hamda suvdan foydalanuvchilarning javobgarligini oshirishga xizmat qiladi.

5) O'zbekiston Respublikasining Suv kodeksi 88-moddasiga 5-qism sifatida quyidagi bandni kiritish taklif etiladi:

“Suvlarning sifat ko'rsatkichlari belgilangan standartlarga, ekologik xavfsizligi talablari va sanitariya me'yorlariga mos kelmaganligi oqibatida aholi salomatligiga zarar yetkazgan taqdirda, iste'molchi suv yetkazib beruvchi tashkilotdan yetkazilgan zararni talab qilish huquqiga ega”.

Mazkur norma suv yetkazib beruvchi tashkilotlarning mas'uliyatini oshiradi hamda ularni suv sifatini doimiy ravishda nazorat qilib borishga undaydi. Chunki, iste'molchilarga yetkazilgan zarar uchun moddiy javobgarlik mavjud bo'lsa, suv ta'minoti korxonalari suvni tozalash, monitoring qilish va sifatini ta'minlash masalalariga yanada jiddiy yondashadi. Bu albatta fuqarolarning, ya'ni iste'molchilarning ekologik huquqlarini to'laqonli ta'minlash, ularni huquqlarini himoyasida muhim qadam bo'lardi.

6) O'zbekiston Respublikasining Suv kodeksi 89-moddasi 2-qismini quyidagicha tahrirlash taklif etiladi:

“Zarur bo'lgan yer usti suv manbalari bo'lmagan hamda yer osti chuchuk suvlarining yetarli zaxiralari bo'lgan hududlarda tasdiqlangan limitlarga muvofiq tog'-kon sanoati va geologiya organlari ushbu suvlardan ichimlik va xo'jalik-maishiy suv ta'minoti bilan bog'liq bo'lmagan maqsadlar uchun foydalanishga ko'pchilik mahalla aholisini rozilishi bilan ruxsat berilishi mumkin”

Yer osti chuchuk suvlari strategik tabiiy resurs hisoblanib, ularning tiklanish jarayoni nisbatan sekin kechadi. Shu sababli bunday suv manbalaridan sanoat, ayniqsa tog'-kon ishlari yoki boshqa ishlab chiqarish ehtiyojlari uchun foydalanish ekologik muvozanatga salbiy ta'sir ko'rsatishi mumkin. Mazkur holatlarda faqatgina aksariyat aholining roziligi bilan yer osti suvlaridan foydalanishga ruxsat berilishi mumkin. Bu bilan suv resurslarini muhofaza qilishda jamoatchilik ishtirokini oshirishga xizmat qiladi.

7) MJTK 197⁹-moddasi sifatida yangi norma kiritish taklif etiladi:

“Tog'-kon sanoati va geologiya organlari davlat inspektorining qonuniy faoliyatiga to'sqinlik qilganlik, shuningdek uning ko'rsatmalarini bajarmaslik

Tog'-kon sanoati va geologiya organlari davlat inspektorining qonuniy faoliyatiga to'sqinlik qilganlik, shu jumladan uning tekshirish o'tkazishiga to'sqinliklarni yuzaga keltirganlik, xo'jalik yurituvchi subyektlarning hududlari va

inshootlarini ko'zdan kechirish uchun ularga kiritishni rad etganlik, shuningdek atrof-muhitni muhofaza qilish to'g'risidagi qonunchilikning buzilishlarini bartaraf etishga doir ko'rsatmalarini bajarmaslik,

- fuqarolarga bazaviy hisoblash miqdorining besh baravaridan o'n baravarigacha, mansabdor shaxslarga esa – yigirma baravaridan o'ttiz baravarigacha miqdorda jarima solishga sabab bo'ladi".

Ushbu taklif orqali Tog'-kon sanoati va geologiya sohasidagi davlat inspektorlari xo'jalik yurituvchi subyektlar faoliyatini tekshirish, hudud va inshootlarni ko'zdan kechirish, aniqlangan qonunbuzilishlarni bartaraf etish bo'yicha majburiy ko'rsatmalar berish huquqini takomillashtirishga xizmat qiladi. Agar ushbu vakolatlarni amalga oshirish jarayonida ularga sun'iy to'sqinlik qilinsa, ekologik nazorat samaradorligi pasayadi va atrof-muhitga zarar yetkazilish xavfi ortadi.

III. Huquqni qo'llash amaliyotini takomillashtirishga oid takliflar:

1) O'zbekiston Respublikasi Vazirlar Mahkamasining 2019-yil 12-dekabrda "Yer qo'ldan foydalanish shartlarini ishlab chiqish bo'yicha davlat komissiyasi faoliyatini yanada takomillashtirish chora-tadbirlari to'g'risida" qarori qarorning ikkinchi bobi, 6-bandida komissiya o'ziga yuklangan vazifalarga quyidagi funksiyani qo'shimcha sifatida qo'shish taklif etiladi:

"bitim shartlariga muvofiq investor bilan shartnoma tuzish hamda tuzilgan shartnomada yer qo'ldan foydalanish shartlari buzilganligi yuzasidan vakolatli organga taqdimnoma kiritish".

Bu bilan sohada qoidabuzarliklarni oldi olinishda, ya'ni profilaktikasini yaxshilashga sezilarli ta'sir qilib, yer qo'ldan foydalanish muhim o'rin tutadi.

2) O'zbekiston Respublikasi Sanitariya-epidemiologik osoyishtalik va jamoat salomatligi qo'mitasining "Yer osti va yer usti suv obyektlarini muhofaza qilish bo'yicha sanitariya qoidalari, normalari va gigiyena normativlarini (0083-24-son SanQvaN) tasdiqlash to'g'risida" qarori qabul qilingan, biroq yer osti quduqlarini joylashtirish, sanitar talablar, ularni laboratoriya tekshiruvlaridan o'tkazish muddatlari, qo'ldan belgilangan qoidalar mavjud emas. Bu esa qishloq joylarida kanalizatsiya quduqlari yoki hojatxonalarini joylashuvi orasida sanitar masofa saqlanmasligi yoki yondosh xonadonlardagi kanalizatsiya quduqlariga tashlanayotgan suyuq chiqindilar natijasida xonadondagi quduq suvlarini ichish uchun yaroqsiz bo'lib qolishiga olib keladi, aholi sog'lig'iga e'tiborsizlik natijasida turli kasalliklarni kelib chiqishi kuzatilmoqda. Shu sababli, O'zbekiston Respublikasi Sanitariya-epidemiologik osoyishtalik va jamoat salomatligi qo'mitasining Quduqlardan foydalanish Yo'riqnomasi ishlab chiqilish taklif etiladi.

3) "Suvmap.uz" saytida mamlakatimizdagi suv obyektlari, ya'ni daryo, ko'llar, kanallar, suv omborlari, quduq va artezian quduqlari joylashuvi haqida ma'lumot berilgan. Ammo, unda mamlakatimizdagi cheklangan suv inshootlari haqida ma'lumot berilgan. Ushbu saytni takomillashtirish, barcha suv obyektlari va ularni quvvatlari haqida to'liq ma'lumotlarni kiritish zarur. Ushbu ma'lumotlar asosida sohada ruxsatnomalar berishga vakolatli O'zbekiston Respublikasi Suv xo'jaligi vazirligi va O'zbekiston Respublikasi Tog'-kon sanoati va geologiya vazirligi huzuridagi "Yer qo'ldan foydalanish markazi" davlat muassasasi elektron ma'lumotlar bazasi bilan integratsiyalash zarur.

4) Yer osti suvlardan yer osti suvli qatlamlaridan olinadigan suvdan foydalanish va suv iste'moli qoidalarini, yer osti suvli qatlamlaridan suv olish limitlarini buzish, yer osti suvlaridan o'zboshimchalik bilan suv olish huquqbuzarliklarida fuqaro yoki yuridik shaxslar faqatgina ma'muriy jarimani to'lash bilan cheklanishmoqda. Ularni tabiatga, yer osti suvlaridan ortiqcha foydalanganlikni hisoblash, huquqbuzarlik aniqlangunga qadar yetkazgan zararli ta'siriga mutanosib ravishda zarar summasini undirish masalalari qonunchilikda o'z yechimini topmagan hamda uni takomillashtirish lozim.

5) O'zbekiston Respublikasi Prezidentining 05.01.2026 yildagi 1-sonli "Respublika mahallalarida xavfsiz muhitni yaratish yo'nalishida yaxlit manzilli ishlash tizimini joriy etishga qaratilgan qo'shimcha chora-tadbirlar to'g'risida" qarori ijrosini ta'minlash maqsadida Ispaniya tajribasi asosida yomg'ir suvlaridan unumli foydalanish, yog'ingarchilik vaqtida suvlarni tankerlar orqali to'plash va undan qurg'oqchilik yoki suvsiz paytlarda maqsadli foydalanish tajribasini mahallalarda joriy etish lozim.

6) O'zbekiston Respublikasi Prezidentining 05.01.2026 yildagi 1-sonli "Respublika mahallalarida xavfsiz muhitni yaratish yo'nalishida yaxlit manzilli ishlash tizimini joriy etishga qaratilgan qo'shimcha chora-tadbirlar to'g'risida" qarori mazmun-mohiyatidan kelib chiqib, ichimlik va xo'jalik-maishiy ehtiyojlardan tashqari maqsadlarda yer osti chuchuk suvlaridan foydalanishga tog'-kon va geologiya organlari tomonidan ruxsatnoma berishda mahalla aholisini roziligini olish talabini joriy etish maqsadga muvofiq deb hisoblaymiz. Bu esa kelgusida mahalla aholisini chuchuk suvga bo'lgan huquqini to'laqonli ta'minlash va muhofazasiga xizmat qiladi.

7) Yer osti suvlarini barqaror va xavfsiz rivojlanishi ta'minlash zarur ahamiyat ega. Yer osti suvlaridan foydalanishga ruxsatnoma berilgan muddat tugashi va uni uzaytirish maqsadi bo'lmagan yoki foydalanishga yaroqsiz bo'lib qolgan holatlarda ruxsatnoma olgan yuridik yoki jismoniy shaxs o'z mablag'lari hisobidan ishlatilmayotgan yer osti quduqlarini ifloslantirmasdan, texnik va geologik xavfsizlik qoidalariga rioya etgan holda yopib tashlash(tamponaj) majburiyatini yuklash lozim. Ushbu qoidani "Yer osti suvlaridan maxsus foydalanish yoki ularni maxsus iste'mol qilish uchun ruxsatnoma berish bo'yicha davlat xizmatlari ko'rsatishning MA'MURIY REGLAMENTI" bilan yer osti suvlaridan maxsus foydalanish uchun ruxsatnoma olish talab va shartlari qatoriga kiritish orqali takomillashtirish zarur. Bu esa kelgusida yer osti suv zahiralarini to'laqonli himoyasida hamda turli xildagi zararli ta'sirlar natijasida ifloslanishini oldini olgan bo'lamiz.

**SCIENTIFIC COUNCIL FOR AWARDING SCIENTIFIC DEGREES
No.DSc.07/2025.27.12.Yu.01.03 AT TASHKENT STATE UNIVERSITY OF
LAW**

TASHKENT STATE UNIVERSITY OF LAW

OTAMIRZAEV OYBEK MURODULLO UGLI

LEGAL STATUS OF GROUNDWATER USE AND PROTECTION

12.00.06. - The right to natural resources. Agrarian law. Environmental law.

ABSTRACT
of the dissertation of the Doctor of Philosophy in Legal Sciences (PhD)

Tashkent - 2026

The topic of the Doctor of Philosophy (PhD) dissertation has been registered with the Higher Attestation Commission under the Academy of Sciences of the Republic of Uzbekistan under the number B2025.2.PhD/Yu1954.

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The dissertation can be accessed at the Information Resource Center of Tashkent State University of Law (registered under No. 1517). Address: 35 Sayilgoh Street, Tashkent 100047. Tel.: +99871 233-66-36.

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INTRODUCTION (Abstract of the dissertation of the PhD)

Relevance and Necessity of the Dissertation Topic. Global climate change, population growth and economic growth, and their need for water, are causing water resource shortages to increase year by year. There is a need to improve public control over the use of groundwater, drilling of underground wells without permits, improve accurate water accounting, and strengthen accountability. According to the UN, “about 2.2 billion people in the world do not have access to clean drinking water, and 3.5 billion people need clean technical water. It is estimated that by 2050, 40 percent of the world’s population will experience a shortage of fresh water, and 20 percent will be forced to live without fresh water”¹. This in turn, requires the development of a legislative framework for saving water, reducing its pollution, and efficient use of water. The protection of water resources through the improvement of water legislation, the development of legal norms for their preservation on a global scale, has now become an urgent problem for each country and, at the same time, the world community. According to the United Nations Environment Program (UNEP), “90 percent of the world’s drinking water is groundwater”².

A number of practical works are being carried out in the world in the field of rational use and protection of groundwater. In particular, in various countries, consistent efforts are being made to improve groundwater resource monitoring systems, expand hydrogeological research, digital modeling of groundwater resources, introduce artificial reservoir recharge technologies, and develop measures to prevent groundwater pollution. Activities in this area directly contribute not only to ensuring sustainable use of groundwater resources, but also to solving such pressing issues as strengthening environmental safety, providing the population with high-quality drinking water, and meeting the needs of agriculture and industry. Therefore, the importance of scientific research aimed at improving effective mechanisms for the rational use and protection of groundwater, the targeted use of every drop of water, the development of interstate cooperation on transboundary groundwater, updating existing legislation in accordance with modern requirements, and the development of new legal and institutional approaches in this area is growing.

In our republic, climate change has a significant impact on water supply and the formation of surface and groundwater resources. This is especially evident in years of low water, when technogenic conditions of low water arise as a result of changes in the natural regime of rivers, as well as when the average annual flow of surface water significantly decreases. In addition, “as a result of global climate change, the area of glaciers in Central Asia has decreased by about 60 percent over the past 50-60 years. According to estimates, by 2050, water resources in the Syrdarya basin will decrease by 5 percent, and water resources in the Amu Darya

¹ The United Nations World Water Development Report 2024, Water crises threaten world peace (<https://www.un.org/sustainabledevelopment/blog/2024/03/un-world-water-development-report/#:~:text=According%20to%20the%20new%20report,access%20to%20safely%20managed%20sanitation>)

² <https://hydrogeology.uz/>

basin by 15 percent³. If by 2015 the total water deficit in Uzbekistan amounted to more than 3 billion m³, then by 2030 it may reach 7 billion m³, and by 2050 - 15 billion m³". In our country, "the total reserve of groundwater is 31.2 billion cubic meters, of which 47.2 percent falls on the Amu Darya basin, and 52.8 percent on the Syrdarya basin". As the President of the Republic of Uzbekistan Sh. Mirziyoyev noted, "The problem of water scarcity in the world is becoming increasingly urgent. Therefore, from the very first days of our reforms, we have raised the rational use of water to the level of state policy. Recently, we have adopted a large-scale program worth \$ 5.5 billion for the next three years on the widespread use of water-saving technologies, modernization of water structures, and irrigation measures"⁴. The increasing impact of global climate change is beginning to reduce the average annual water supply per capita in countries around the world. Therefore, special attention is being paid to the rational use of groundwater resources in all countries.

This dissertation research is based on the UN Convention on the Protection and Use of Transboundary Watercourses and International Lakes (1992), the Convention on the Right of Undirected Use of International Watercourses (1997), the Water Code of the Republic of Uzbekistan (2025), the Laws "On Nature Protection" (1992), "On Drinking Water Supply and Wastewater Discharge" (2022), "On the Safety of Hydraulic Structures" (2023), the Resolutions of the President of the Republic of Uzbekistan No. 439 dated December 7, 2022, No. 343 dated October 24, 2023, No. 5863 dated October 30, 2019, No. 6024 dated July 10, 2020, It serves to a certain extent to implement the tasks set forth in Decrees No. 101 of June 20, 2023, No. 158 of September 11, 2023, and other relevant legal acts.

Compliance of the Research with the Priority Areas of Scientific and Technological Development of the Republic. The dissertation research was conducted in accordance with the priority direction I of the Republic's science and technology development: "Formation of a system of innovative ideas and ways for their implementation in the social, legal, economic, cultural, and spiritual-educational development of an information society and a democratic state".

Degree of Study of the Problem. Scientific research on the improvement of groundwater legislation in the Republic of Uzbekistan has not been sufficiently studied. However, it should be noted that the general legal aspects of the improvement of water legislation in Uzbekistan have been partially studied in the scientific works of H.Sh. Khayitov, N.Sh. Rajabov, A.O. Zhumanov, Z.Sh. Shofiyev⁵.

³ O'zbekiston Respublikasi Ekologiya, atrof-muhitni muhofaza qilish va iqlim o'zgarishi vazirligi. (2023). Atrof-muhit holati to'g'risida milliy ma'ruza: O'zbekiston. Barqaror rivojlanish xalqaro instituti

⁴ O'zbekiston Respublikasi Prezidenti Shavkat Mirziyoyevning Oliy Majlis va O'zbekiston xalqiga Murojaatnomasi 26.12.2025 (<https://president.uz/oz/lists/view/8834>)

⁵ Hayitov H.Sh. "O'zbekiston Respublikasida suv qonunchiligining rivojlantirishi va takomillashtirish istiqbollari" mavzusidagi yuridik fanlar doktori(DSc) ilmiy darajasini olish uchun yozgan dissertatsiyasi. 2024; Rajabov N.SH. Ekologik me'yorlash tizimini huquqiy tartibga solish masalalari. Yu.f.d dissertatsiyasi. 2023; Jumanov A.O "Aholini toza ichimlik suvi bilan ta'minlashning ekologik-huquqiy muammolari" avtoreferat, 2019; Shofiyev Z.SH. "O'zbekiston Respublikasida fermer xo'jaliklarining suv resurslaridan foydalanishini huquqiy tartibga solish muammolari".Nomzodlik disser. 2023.

Also, the issues of improving water legislation within the CIS countries were studied to one degree or another in the scientific works of Y.A. Gledko, M.M. Brinchuk, A.A. Mukasheva, A.L. Timofeyev, M. Absametov, Y.V. Novikov, A.S. Shirobokov, O.S. Kolbasov, V.V. Petrov, N.V. Kichigin, while E.N. Mukhina (2011) and A. Borodina (2018) conducted scientific work directly on the protection of groundwater. From foreign countries, Joseph W. Dellapenna, J. Grönwall, K. Danert, F. Van der Aa, M. Sophocleous. The works of such scientists as F.Pacheco, K.Conti, J.Gupta, Y.Zhang, F. Molle, S.Burchi, K.Mechlem⁶ have studied the problems of water legislation and developed their appropriate solutions.

However, the fact that the issues of improving groundwater legislation, eliminating gaps and internal conflicts in it, and improving it in the conditions of new Uzbekistan have not been separately studied indicates the relevance of this topic.

Connection of the dissertation topic with the research work plans of the higher education institution where the dissertation is being carried out. The dissertation topic was completed within the framework of the project “Achieving the Goals of Ecologically Sustainable Development” in accordance with the research plan of Tashkent State University of Law.

The aim of the research is to develop proposals and recommendations to improve legislative documents on the safe and effective use of groundwater, increase the effectiveness of ongoing measures, and improve the effectiveness of law enforcement practice based on an analysis of the problems.

Research objectives:

the concept of groundwater, its rational use, improvement and development of the concepts of groundwater monitoring, and a general description of its legal status;

a broad scientific and legal analysis of current environmental, socio-political and legal issues in the field of groundwater use and protection;

a systematic analysis of the procedure for obtaining permits for groundwater use;

⁶ Brinchuk M. M. Legal Protection of the Environment from Pollution by Dangerous Industrial Wastes //Pace Envtl. L. Rev. – 1987; Мукашева, А. А. Теоретические и методологические проблемы водного права Республики Казахстан в современных условиях... дис. на соиск. учен. степ.д.ю.н.- Астана, 2010 - 156 с; Тимофеев Л.А. Правовые проблемы обеспечения населения России питьевой водой нормативного качества: автореф. дис. ... канд. юрид. наук. – Саратов: 2004; Absametov M. et al. Assessment of the groundwater for household and drinking purposes in central Kazakhstan //Groundwater for Sustainable Development. – 2023; Новиков Ю.В. Экология, окружающая среда и человек. Учеб. пособие. -М.:«ФАИР», 1998; Широбок А.С Правовые основы установления и применения лимитов на выбросы и сбросы загрязняющих веществ и микроорганизмов //Юрист. 2006; Кичигин Н.В. Правовые проблемы публично экологического контроля. Монография. М., 2012; Мухина Эвелина Николаевна. Правовое регулирование использования и охраны подземных вод. Диссертация на соискание ученой степени кандидата юридических наук. – Москва, 2011; Бородина Алина. Правовое регулирование использования и охраны подземных вод в Республике Казахстан в условиях перехода к «зеленой экономике». Диссертация на соискание ученой степени доктора философии. – Алматы, 2018; Joseph W. Dellapenna, A Primer on Groundwater Law, 49 IDAHO L. REV. 265 (2013); Grönwall, J (2022). Groundwater policy and planning; Sophocleous, Marios. "Interactions between groundwater and surface water: the state of the science." Hydrogeology journal 10.1 (2002); Conti.K, Gupta.J. "Protected by pluralism? Grappling with multiple legal frameworks in groundwater governance." Current Opinion in Environmental Sustainability 11 (2014); Zhang.Y, et al. "Changes in soil water holding capacity and water availability following vegetation restoration on the Chinese Loess Plateau." Scientific Reports 11.1 (2021); Alvar Closas, François Molle. Groundwater governance in Europe. 2016; Stefano Burchi, Kerstin Mechlem. Groundwater in international law. 2005.

identification and systematization of existing environmental and legal requirements for groundwater use;

mechanisms of state control in the field of groundwater use and protection, the legal basis for conducting groundwater monitoring, development of proposals and recommendations for their improvement;

the legal significance of maintaining a state cadastre of groundwater, development of mechanisms for its improvement;

based on the analysis of international documents and international experience, study of the prospects for improving the groundwater legislation of the Republic of Uzbekistan and development of recommendations.

The object of the study is environmental and legal relations related to the legal regulation of relations related to groundwater and protection from possible harmful effects on the environment due to negative situations in this area.

The subject of the research is groundwater environmental legislation, the practice of their application, international and foreign experience in the field, as well as conceptual approaches and scientific and theoretical views existing in legal science.

Research methods. In conducting this research, various methods were employed, including induction, deduction, historical analysis, logical reasoning, systematic approach, comparative legal analysis, statistical methods, analysis, and synthesis.

Scientific novelty of the research consists of the following:

the proposal to establish administrative liability for illegal drilling of wells into groundwater and the resulting environmental and legal damage is justified, as it serves to prevent negative processes in the field;

the need to include groundwater deposits and aquifers and their zones of leakage into the ground or to the surface of the earth among the categories of groundwater objects is justified;

the need to establish norms for the approval of groundwater reserves by the State Commission for Mineral Resources under the Ministry of Mining Industry and Geology of the Republic of Uzbekistan in accordance with the procedure established by law and serves to prevent negative processes in this field is justified;

the importance of regulating the use of groundwater for various needs by the bodies of the Ministry of Mining Industry and Geology of the Republic of Uzbekistan together with water management bodies, taking into account their interconnection with surface waters, is legally justified.

Practical results of the research are as follows:

in relation to groundwater, definitions of the concepts of groundwater, rational use of groundwater, and groundwater monitoring were developed, and proposals were made for legislation to strengthen the legal status of groundwater;

the legislation of foreign countries was analyzed, and proposals were prepared to improve the rights and obligations of groundwater suppliers, strengthen the rights of water users, and prevent negative processes with groundwater;

types of violations in the field of groundwater and their causal links, analytical recommendations were developed for their prevention;

opinions were expressed on expanding the powers of specially authorized bodies related to groundwater, introducing new, thoroughly studied norms into administrative and criminal legislation;

within the framework of the topic, proposals were made on the implementation of international standards into our national legislation based on the Convention on the Protection and Use of Transboundary Watercourses and International Lakes, the Convention on the Right of Non-Directional Use of International Watercourses, and a number of Council of Europe directives.

Reliability of the research results. The validity of the research results is substantiated by the analysis of national legislation norms, law enforcement practice materials, and international and foreign countries' legislative norms. The findings are based on official sources and scientific literature, and the implementation of the conclusions and proposals has been confirmed by the relevant state bodies.

The scientific and practical significance of the research findings. The scientific significance of the research work is manifested in the fact that the scientific and theoretical conclusions, proposals and recommendations contained in it can be used in future scientific activities, lawmaking, law enforcement practice, in the activities of specially authorized state bodies providing legal assistance in environmental issues, in the interpretation of relevant legislative norms, in the improvement of national legislation, and in the further scientific and theoretical enrichment of the disciplines of "International Environmental Law", "Water Law", "Transboundary Water Law". Relying on the theoretical foundations of the research work will create a basis for conducting new scientific research related to the international legal regulation of groundwater in the future, improving contractual and institutional mechanisms in the field of groundwater, and developing practical proposals for the implementation of international legal norms into national legislation.

The practical significance of the research results lies in the development of law enforcement practice in the protection and use of groundwater, in the inventory of legislative acts in the field of installing meters for groundwater, applying modern technologies and methods in its use, as well as in improving the activities of state bodies and organizations with relevant authority in this area, from obtaining a conclusion for the use of subsoil to its full-fledged operation. Proposals were made based on a number of laws and regulations covering all processes related to groundwater, analyzing the legislative acts and regulations.

Implementation of Research findings. Based on the results of the study of the legal status of groundwater use and protection:

the proposal on the issue of establishing liability for illegal drilling of a well into groundwater was used in the formulation of the amendment to Part 4 of Article 74 of the Code of Administrative Responsibility by Clause 1 of Article 1 of the Law of the Republic of Uzbekistan No. 1062 dated May 5, 2025. (Act of the Institute of Parliamentary Research under the Legislative Chamber of the Republic of Uzbekistan No. 9/dn-188 dated September 23, 2025). This proposal establishes liability for illegal drilling of groundwater;

the proposal to include groundwater deposits and aquifers, as well as their seepage zones into the subsoil or to the surface, among the categories of water bodies was used in the formulation of Article 1 of the Law of the Republic of Uzbekistan No. 1076 dated July 30, 2025, and the second paragraph of Part 2 of Article 8 of the Water Code. (Act of the Institute of Parliamentary Research under the Legislative Chamber of the Republic of Uzbekistan No. 3/dn-273 dated December 29, 2025). This proposal served to fully define the scope of groundwater protection;

the proposal for approval of groundwater reserves by the State Commission for Mineral Resources under the Ministry of Mining Industry and Geology of the Republic of Uzbekistan in accordance with the procedure established by law was used to formulate Article 1 of the Law of the Republic of Uzbekistan No. 1076 dated July 30, 2025 and Part 1 of Article 123 of the Water Code. (Act of the Institute of Parliamentary Research under the Legislative Chamber of the Republic of Uzbekistan No. 3/dn-273 dated December 29, 2025). This proposal served to indicate the powers of the State Commission for Mineral Resources under the Ministry of Mining Industry and Geology of the Republic of Uzbekistan and determine its importance in the field;

the proposal of the Ministry of Mining Industry and Geology of the Republic of Uzbekistan, together with water management bodies, to regulate the use of groundwater for various needs, taking into account their interconnection with surface waters, was used to formulate the second paragraph of the second part of Article 123 of the Water Code of the Republic of Uzbekistan, Article 1 of the Law of the Republic of Uzbekistan No. 1076 dated July 30, 2025. (Act of the Institute of Parliamentary Research under the Legislative Chamber of the Republic of Uzbekistan No. 3/dn-273 dated December 29, 2025). This proposal served to strengthen the protection of groundwater and limit its use for unspecified purposes.

Approbation of the research results. The findings of this study were presented and discussed at 11 scientific and practical conferences, including 5 international and 6 national scientific and practical conferences.

Publication of research results. A total of 14 scientific works have been published on the topic of the dissertation, including 7 scientific articles (4 of which are in foreign journals) and 7 articles and abstracts in collections (3 of which are in proceedings of international scientific and practical conferences).

Structure and volume of the dissertation. The dissertation comprises an introduction, three chapters, a conclusion, a list of references, and appendices. The dissertation's total length is 131 pages.

THE MAIN CONTENT OF THE DISSERTATION

The introduction to the dissertation work justifies the relevance and necessity of the research topic, the goals and objectives, object and subject of the research, as well as a review of foreign scientific research on the topic of the dissertation, its compliance with the priority areas of development of science and technology of the republic, the level of study of the problem, the relevance of the topic to the research plan of the higher educational institution where the dissertation is being carried out,

methods, scientific and practical significance are revealed, as well as information on the approbation of the implementation of the research results into practice, published works and the volume of the dissertation.

The first chapter of the dissertation, entitled **“General Legal Description of the Use and Protection of Groundwater”**, examines the importance of groundwater in the world ecosystem today, its important role in providing the population with drinking water, issues of strengthening its legal protection, as well as the scientific works of national scientists in this field H.Sh. Khayitov, N.Sh. Rajabov, A.O. Zhumanov, Z.Sh. Shofiyev, as well as foreign scientists E.N. Mukhina, E. Borodina, and put forward personal views based on their analysis.

As a result of the analysis, the dissertation analyzed the content and essence of groundwater as an object of ecological and legal relations, the historical development of their use, and the theoretical foundations of international concepts and doctrines. Also, the socio-economic and ecological and legal significance of the use and protection of groundwater, its role in ensuring the needs of citizens for water, mechanisms for guaranteeing ecological safety, and current issues of improving national legislation are scientifically covered.

The first paragraph of the first chapter is entitled *“Groundwater as an object of ecological and legal relations”*, which covers the gradual and historical development of groundwater use, as well as a number of concepts and doctrines related to the use of groundwater, their differences, positive and negative sides, shortcomings in the application of these concepts and doctrines in our country, and issues of their improvement.

Based on scientific approaches, the dissertation scientifically analyzed the issues of improving the legal definition of the concept of groundwater, the need to include groundwater in the list of subsoil resources, the importance of defining the scope of a groundwater object, the principles of groundwater, the international legal framework for ensuring environmental safety related to groundwater, and the development of an institutional national legal system for environmental protection in the use of groundwater.

The second paragraph of the first chapter is entitled *“Socio-economic and ecological legal significance of the procedure for the use and protection of groundwater”*, and analyzes the role of groundwater in the development of various spheres of life, the issue of satisfying the need for groundwater as a form of ensuring the environmental rights of citizens, the types of groundwater and their role in today's development. The dissertation indicates that groundwater is a valuable mineral resource, plays a very important role in the life of the country and people, as well as in the development of productive forces.

At the end of the paragraph, the dissertation emphasizes that the concept of groundwater is not defined unanimously and that the mechanisms for its protection are different depending on its types, and, defining the concept of his authorship, concludes that it is necessary to improve legislation and develop a unified mechanism in this direction for the effective protection of all groundwater.

The second chapter of the dissertation, entitled **“Organizational and legal mechanism for the use and protection of groundwater”**, covers the mechanisms for legal regulation of relations related to groundwater through state management and their effectiveness. The procedure for granting permits for the use of groundwater, its environmental requirements, the importance of control, monitoring and cadastre in the field, and their role in preventing violations are studied.

In particular, the first paragraph, entitled *“Procedure for granting permits for the use of groundwater”*, covers issues such as the requirements established for obtaining permits for the special use and consumption of groundwater, their importance, the need to develop and create new mechanisms.

As a result of the analysis, the dissertation fully analyzed the permitting mechanisms of advanced foreign countries and justified the need to introduce them into our national legislation, while also revealing the need to put an end to cases of unauthorized use of groundwater and its important future significance.

In the second paragraph of the second chapter, entitled *“Environmental requirements for the use of groundwater”*, the dissertation analyzed international and national environmental standards related to the environmental requirements for the use of groundwater, norms and standards. Scientific studies on the rational use of groundwater, a scientific and theoretical analysis of the factors leading to non-fulfillment of environmental requirements, and the institutional foundations for their elimination are presented.

The third paragraph of the second chapter, entitled *“State control in the field of groundwater use and protection”*, highlights the role and importance of state control in the use and protection of groundwater, and critically analyzes the material, technical and personnel issues related to the expansion of the powers of a specially authorized state body, namely the Inspection for Supervision of the Mining Industry and Geology under the Ministry of Mining and Geology of the Republic of Uzbekistan, and the implementation of effective control.

The fourth paragraph of the second chapter, entitled *“Legal procedure for conducting groundwater monitoring”*, concludes with the researcher’s conclusions on the importance, types, differences, composition of groundwater monitoring, requirements for adapting the monitoring institution to international standards, the possibilities of introducing Smart water technologies, and legal procedures related to supporting the activities of hydrological posts.

The fifth paragraph of the second chapter is entitled *“State Cadastre of Groundwater and its Innovative Technologies”* and explains the legal basis for maintaining the State Water Cadastre, its importance, the procedure for maintaining information on water bodies, water resources, water regime, quality, as well as the possibility of keeping records of water users and water consumers, digitization, creating a transparent information system, introducing geoinformation technologies, and increasing the accuracy of forecasting, thereby increasing the efficiency of the system.

At the end of the paragraph, the dissertationist identified shortcomings in the exchange of information on groundwater by the international community, and concluded that in the future, it is necessary to harmonize legislation at the national and regional levels and strengthen international legal frameworks in this direction in order to implement effective legal protection of groundwater.

The third chapter of the dissertation is entitled **“Scientific and theoretical issues of improving the use and protection of groundwater”**, which analyzes international documents related to the use and protection of groundwater, changes in relations related to groundwater in the international arena, international standards for groundwater, as well as the role and importance of the UN specialized agencies: World Health Organization (WHO), Food and Agriculture Organization (FAO), United Nations Children's Fund (UNICEF), United Nations Environment Program (UNEP), International Labor Organization (ILO), World Trade Organization (WTO), United Nations International Development Agency (UNDP) in the protection of groundwater in the international context.

In particular, the first paragraph, entitled *“The role and significance of international instruments in improving the use and protection of groundwater”*, discusses in detail the importance of the Convention on the Protection and Use of Transboundary Watercourses and International Lakes and the Convention on the Right of Non-Directional Use of International Watercourses, dedicated to the international protection of groundwater, and the need to implement their provisions in our national legislation. It also concludes on issues related to international requirements for groundwater and their reflection in the legislation of countries of the world.

In the second paragraph of the third chapter, entitled *“The need to improve national legislation on the use and protection of groundwater”*, the dissertation examines the need to improve the principles of national legislation related to groundwater; the essence of implementing modern trends in countries with advanced experience in the legal protection of groundwater: Germany, Ukraine, Azerbaijan. This served to strengthen the Water Code and other legislation related to groundwater and bring it into line with world standards.

At the end of the paragraph, the dissertationist emphasized that groundwater is the most sensitive and vulnerable ecological object on an international scale, the complexity of eliminating the damage caused to it, and the difficulty of identifying violations in this area, and described the need for the Republic of Uzbekistan to accelerate legal and practical work in this area. In this regard, the issues of implementation of national legislation were studied scientifically and theoretically. Also, proposals were developed to improve the legislation on groundwater protection, having studied the legislation of the European Union, the USA, Japan and other countries, and proposals were made for a draft law on amendments and additions to the legislation.

CONCLUSION

As a result of the research work on the legal status of groundwater use and protection, the following scientific, theoretical and practical proposals and conclusions were developed:

I. Scientific-theoretical proposals and conclusions:

1) Today, there are a number of concepts and doctrines regarding the use of groundwater. These are: Absolute dominion (the landowner has absolute control over the groundwater under his land plot and can extract and use it in any quantity without permission, even if this causes damage to neighboring landowners), Correlative rights (all landowners with rights to the same groundwater body have the right to use groundwater resources fairly and proportionately), The reasonable use rule (a legal doctrine that assesses the legality of groundwater use based on its reasonableness, purpose, volume, and impact on other users and the environment), Appropriative rights (the principle of “first come, first served”, i.e. a legal doctrine that provides that the right to use water resources belongs to the person who first, legally and beneficially appropriates the water, and that this right is considered a priority over subsequent users), Regulated riparianism (although the right to use water resources is related to land ownership, these rights are subject to licensing, permitting, and is a modern water law doctrine that is strictly regulated based on ecological and social interests).

2) The legislative documents on the use of groundwater in our republic are based on the doctrines of The reasonable use and Regulated riparianism, and we can also see partial elements of other doctrines. For example, the doctrine of Appropriative rights (“first come, first served”) is used when issuing special permits for the use of groundwater. When using groundwater, regardless of who owns the land, it is necessary to obtain a permit in the prescribed manner, that is, just as the owner (user) of the land cannot own groundwater, the user of groundwater cannot own the land on which the underground well is located. In our opinion, the choice of The reasonable use and Regulated riparianism doctrines by the Republic of Uzbekistan is considered appropriate.

3) A number of proposals are put forward for the full functioning of the doctrine of reasonable use: in areas where there are no necessary surface water sources and there are sufficient reserves of groundwater fresh water, the abolition of the procedure for granting permits to mining and geological authorities to use these waters for purposes not related to drinking and domestic water supply, within approved limits; groundwater fresh water should be used only for issues related to drinking and domestic water supply. In implementing the doctrine of regulated riparianism, it is necessary to introduce a procedure for obtaining permits in accordance with the established procedure for any actions of subsoil users related to groundwater.

4) A number of proposals are being put forward to strengthen the obligations and increase the accountability of those carrying out work related to the subsoil. In particular, a rule is proposed that if groundwater layers are detected during excavation work, mineral extraction organizations must immediately notify the relevant executive authorities and take measures to protect groundwater in the prescribed manner (or obtain a separate permit if they have groundwater extraction equipment). This will serve to conduct relations with groundwater more carefully and increase responsibility in the future.

5) The right to life of a person cannot be realized without ensuring the right to clean drinking water in the required quantity and quality. Therefore, the right of a person to clean drinking water is his absolute and inviolable right, therefore it is appropriate to recognize this right as an inalienable natural right that should be established in the constitutional status of his fundamental rights and freedoms. It is also necessary to include in the Universal Declaration of Human Rights the environmental rights of people, as well as the right to “access to clean and quality drinking water”. It can be defined as follows: the right of everyone to free and non-discriminatory access to safe and sufficient drinking water necessary for ensuring life and health, meeting sanitary and hygienic requirements. Also, in article 2 of the 2003 resolution No. 15 of the Commissioner for Human Rights of the Committee on Economic, Social and Cultural Rights⁷, it is stated that “Everyone has the right to sufficient, safe and affordable water for personal and daily needs”. As stipulated in the new Constitution of Uzbekistan, it is necessary to include this right as another proof of the essence of a social state. Ensuring this will place an important responsibility on the state and government bodies and serve the stability of the sector.

6) Increasing the knowledge of industry representatives in relations related to groundwater and establishing safe relations is a requirement of today. Therefore, it is necessary to study mining law in universities operating in the field of geology. Because a geologist not only studies the subsoil, but also participates in the processes of searching for, evaluating and developing minerals. These processes are directly regulated by legal norms. This will serve to deepen the legal knowledge of specialists and develop science. Teaching mining law in universities specializing in geology is not only theoretical knowledge, but also a necessary basis for practical activity. It ensures the legal, safe and efficient work of specialists and contributes to the economic development of the country.

7) In our country, there are different state organizations that control surface and groundwater, and it is necessary to clearly define their scope of control. This will prevent various misunderstandings and censorship. It is proposed to define groundwater as follows: “Groundwater is water located below the surface of the earth, in water areas below the water table in the layers of the earth's crust, with the exception of artificially created water bodies”. This means that the waters located

⁷ <https://www.refworld.org/legal/general/cescr/2003/en/39347>

below the water table in the areas of water bodies, that is, starting from the beginning of the earth's crust, are groundwater. In addition, it was suggested that artificially created water bodies under the ground should be included in the list of surface water bodies, not groundwater.

8) A full definition of concepts is important for a good mastery of the field at the highest level. The concept of “rational use of natural resources” is repeated twenty times in the Law “On Nature Protection”, but it is not defined. The following definition is proposed: “Rational use of natural resources is an activity aimed at ensuring the right of citizens to a favorable natural environment and protecting the natural environment, using them in accordance with established limits and standards, and the recommendations of advanced science, in order to comply with the requirements of environmental safety for the interests of present and future generations.” Thus, in order to improve the protection of natural objects, we need to define this concept. This is how rational use of natural resources was revealed, analyzing the opinions of ecologists and specialists involved in nature protection.

9) The concept of “Rational use of water” is repeated more than twenty times in the Water Code, but it is not defined. In the dissertation work, a scientific definition of rational use of water was developed. The following definition is proposed: “Rational use of water is an activity aimed at ensuring the right of citizens to have water resources suitable for their intended purposes, using them based on established limits and standards, developed scientific recommendations and advanced water-saving technologies, in order to comply with the requirements of environmental safety related to water for the interests of present and future generations”. This plays an important role in the protection of water bodies, serves the development of targeted use of water and prevention of waste.

10) The Institute of State Monitoring of Groundwater plays an important role in the protection and control of natural resources. The concept of groundwater monitoring is not defined in our national legislation. Therefore, it is proposed to develop a clear definition in order to improve the sector. “Groundwater monitoring is a system of regular monitoring of the state of groundwater, its changes due to pollution and other harmful effects (processes) of anthropogenic activity, and their use according to established criteria in order to determine the level of groundwater pollution, assess their ecological status, predict the consequences of negative processes, and eliminate them.” Indeed, without accurate information about the composition, condition, and quantity of groundwater, the measures taken may not be effective, but may even lead to its deterioration. This creates the need to develop a concept for the development of continuous and continuous monitoring, given the significant share of groundwater in drinking water and the importance of its role in human health.

11) A study of judicial practice on compensation for damage to water resources indicates that there is no unified procedure for resolving such disputes. This creates difficulties in determining the amount of damage caused as a result of violations in

the field of water relations. In our country, taxa have been developed to determine the amount of fines for damage caused to wildlife. However, there are no taxa for compensation for damage caused to water resources. Therefore, it is necessary to develop tax rates for determining the amount of fines for damage to water resources, in particular groundwater, in the Republic of Uzbekistan.

II. Based on the results of the research, the following proposals and conclusions were developed to improve legislative norms:

1) It is proposed to delete Part 3 of Article 57 of the Water Code of the Republic of Uzbekistan:

“A permit for special use of water for group water intake facilities when using groundwater suitable for use in unverified reserves shall be issued for a period of no more than two years.”

This proposal is appropriate to delete the norm, since the mechanism for using groundwater whose reserves are not measured or confirmed for up to 2 years jeopardizes the right to water supply for future generations, and is also contrary to the rules of their rational and efficient use. Allocation of groundwater for special use without sufficient or accurate information about the groundwater reserve is contrary to the principles of environmental law.

2) It is proposed to amend the definition of minerals in Article 3 of the Law “On Subsoil” as follows:

“Minerals are natural mineral formations of inorganic and organic origin in solid, liquid or gaseous form in the subsoil, including groundwater, salt solutions of salt lakes”.

In this definition, the term “groundwater of industrial importance” has been replaced by “groundwater”. Groundwater includes mineral, thermal and industrial waters, and the amendment is considered important to strengthen the full protection of not only groundwater of industrial importance, but also all types of groundwater in the same order and to prevent misunderstandings in the legislation.

3) Article 4 of the Law “On Subsoil” proposes to include the following principles of subsoil use:

- risk management;
- sustainable development.

It would be appropriate to include these principles. Adding two new principles to the basic principles established in relations related to minerals and incorporating them into the law will not only provide legal protection for users of natural resources, protect the environment, but also increase the number of foreign investors in the list of applicants for mining operations, increase the economic potential of our country, increase the gross domestic product of the population, strengthen industry, and improve living conditions.

4) It is proposed to add the following paragraph to Article 57 of the Water Code of the Republic of Uzbekistan as Part 3:

“The recovery of expenses incurred due to the actions of legal entities and individuals that have a harmful effect on the state of groundwater, the operation of observation wells and other expenses aimed at preventing the emerging dangerous situation shall be carried out at the expense of the funds of the guilty legal entities and individuals.”

This proposal serves to protect public health, ensure the safe use of water resources, and increase the responsibility of water users.

5) It is proposed to include the following paragraph as part 5 of Article 88 of the Water Code of the Republic of Uzbekistan:

“In the event of harm to the health of the population as a result of the non-compliance of water quality indicators with established standards, environmental safety requirements and sanitary norms, the consumer has the right to demand compensation for the damage caused by the water supply organization.”

This norm increases the responsibility of water supply organizations and encourages them to constantly monitor the quality of water. Because, if there is material liability for the damage caused to consumers, water supply enterprises will take the issues of water purification, monitoring and quality assurance more seriously. This would certainly be an important step in fully ensuring the environmental rights of citizens, that is, consumers, and protecting their rights.

6) It is proposed to amend Part 2 of Article 89 of the Water Code of the Republic of Uzbekistan as follows:

“In areas where there are no necessary surface water sources and there are sufficient reserves of fresh groundwater, the mining and geological authorities may, in accordance with the approved limits, allow the use of these waters for purposes not related to drinking and household water supply with the consent of the majority of residents of the neighborhood.”

Fresh groundwater is considered a strategic natural resource, the process of their recovery is relatively slow. Therefore, the use of such water sources for industrial, especially mining, or other production needs may have a negative impact on the ecological balance. In these cases, the use of groundwater may be permitted only with the consent of the majority of the population. This will serve to increase public participation in the protection of water resources.

7) It is proposed to introduce a new norm as Article 1979 of the MJTK:

“Obstruction of the lawful activities of the state inspector of the mining industry and geology bodies, as well as failure to comply with his instructions

Obstruction of the lawful activities of the state inspector of the mining industry and geology bodies, including creating obstacles to his conduct of inspections, refusal to enter the territories and structures of economic entities for inspection, as well as failure to comply with his instructions to eliminate violations of the legislation on environmental protection,

- shall entail the imposition of a fine on citizens in the amount of five to ten times the base calculation amount, and on officials – in the amount of twenty to thirty times”.

This proposal will serve to improve the right of state inspectors in the field of mining and geology to inspect the activities of business entities, inspect territories and structures, and issue mandatory instructions to eliminate identified violations. If they are artificially hindered in the process of exercising these powers, the effectiveness of environmental control will decrease and the risk of environmental damage will increase.

III. Proposals for improving law enforcement practices:

1) The Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated December 12, 2019 “On measures to further improve the activities of the State Commission for the Development of Conditions for the Use of Subsoil” proposes, in Chapter 2, Paragraph 6 of the Resolution, to add the following function to the tasks assigned to the commission:

“to conclude an agreement with the investor in accordance with the terms of the transaction and to submit a submission to the authorized body regarding the violation of the conditions for the use of subsoil plots in the concluded agreement.”

This will significantly affect the prevention of violations in the field, that is, to improve prevention and play an important role in the protection of subsoil.

2) The Resolution of the Committee of the Republic of Uzbekistan for Sanitary and Epidemiological Wellbeing and Public Health “On approval of sanitary rules, norms and hygiene standards for the protection of underground and surface water bodies (No. 0083-24 SanQvaN)” has been adopted, but there are no strictly defined rules for the location of underground wells, sanitary requirements, deadlines for their laboratory testing. This leads to the fact that in rural areas the sanitary distance between the location of sewage wells or toilets is not maintained or liquid waste is discharged into sewage wells in neighboring households, which leads to the fact that household well water becomes unfit for drinking, and various diseases are observed as a result of neglect of public health. Therefore, it is proposed to develop the Guidelines for the Use of Wells of the Committee of the Republic of Uzbekistan for the Protection of Underground and Surface Water Bodies.

3) The website “Suvmap.uz” provides information about the location of water bodies in our country, namely rivers, lakes, canals, reservoirs, wells and artesian wells. However, it provides information about limited water structures in our country. It is necessary to improve this site, to include complete information about all water bodies and their capacities. Based on this information, it is necessary to integrate it with the electronic database of the Ministry of Water Resources of the Republic of Uzbekistan and the State Institution “Center for Subsoil Use” under the Ministry of Mining and Geology of the Republic of Uzbekistan, which is authorized to issue permits in this field.

4) In cases of violation of the rules for the use and consumption of water extracted from groundwater aquifers, limits for water extraction from groundwater aquifers, and arbitrary water extraction from groundwater, citizens or legal entities are limited to paying only an administrative fine. The issues of calculating their excessive use of groundwater, and recovering the amount of damage in proportion to the harmful impact caused to nature and the violation before it was detected, have not been resolved in the legislation and need to be improved.

5) In order to ensure the implementation of the Resolution of the President of the Republic of Uzbekistan No. 1 dated 05.01.2026 “On additional measures aimed at introducing an integrated targeted work system to create a safe environment in the neighborhoods of the Republic”, it is necessary to introduce the experience of efficient use of rainwater, collecting water through tankers during precipitation and its targeted use in times of drought or water shortage in the neighborhoods based on the experience of Spain.

6) Based on the content and essence of the Resolution of the President of the Republic of Uzbekistan No. 1 dated 05.01.2026 “On additional measures aimed at introducing a comprehensive targeted system of work to create a safe environment in the republican makhallas”, we consider it appropriate to introduce a requirement for obtaining the consent of the makhalla population when issuing permits by mining and geological authorities for the use of groundwater for purposes other than drinking and household needs. This will serve to fully ensure and protect the right of the makhalla population to fresh water in the future.

7) Ensuring the sustainable and safe development of groundwater is of paramount importance. In cases where the period of validity of the permit for the use of groundwater has expired and there is no intention to extend it or it has become unusable, the legal entity or individual who has received the permit must be obliged to close (tamp) unused underground wells at their own expense without polluting them and in compliance with the rules of technical and geological safety. It is necessary to improve this rule by including it in the list of requirements and conditions for obtaining a permit for the special use of groundwater in the “ADMINISTRATIVE REGULATIONS on the provision of state services for issuing permits for the special use or special consumption of groundwater”. This will ensure the full protection of groundwater reserves in the future and prevent their pollution as a result of various harmful effects.

**НАУЧНЫЙ СОВЕТ DSc.07/2025.27.12.Yu.01.03 ПО ПРИСУЖДЕНИЮ
УЧЕНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ
ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ**

**ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ
УНИВЕРСИТЕТ**

ОТАМИРЗАЕВ ОЙБЕК МУРОДУЛЛО УГЛИ

**ПРАВОВОЕ ПОЛОЖЕНИЕ ИСПОЛЬЗОВАНИЯ И ОХРАНЫ
ПОДЗЕМНЫХ ВОД**

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АВТОРЕФЕРАТ

диссертации доктора философии (Doctor of Philosophy) по юридическим наукам

Ташкент город - 2026 год

Тема диссертации доктора философии (Doctor of Philosophy) зарегистрирована в Высшей аттестационной комиссии при Академии наук Республики Узбекистан под номером B2025.2.PhD/Yu1954.

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Защита диссертации состоится 21 августа 2026 года в 15:00 на заседании Научного совета по присуждению ученых степеней DSc.07/2025.27.12.Yu.01.03 при Ташкентском государственном юридическом университете (Адрес: 100047, г. Ташкент, ул. Сайилгох, 35. Тел./факс: +99871 233-66-36; факс: +99871 233-37-48; эл. почта: info@tsul.uz).

С диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрирована под № 1517). Адрес: 100047, г. Ташкент, ул. Сайилгох, 35. Тел.: +99871 233-66-36.

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ВВЕДЕНИЕ (аннотация к диссертации доктора философии(PhD))

Цель исследования – разработка предложений и рекомендаций по совершенствованию законодательных документов по безопасному и эффективному использованию подземных вод, повышению эффективности действующих мер и улучшению эффективности правоохранительной практики на основе анализа проблем.

Объектом исследования являются природоохранные и правовые отношения, касающиеся регулирования отношений, связанных с подземными водами, и защиты от возможного вредного воздействия на окружающую среду вследствие негативных ситуаций в этой области.

Научная новизна исследования заключается в следующем:

обосновано предложение об установлении административной ответственности за незаконное бурение скважин в подземные воды и причиненный в результате этого экологический и правовой ущерб, что служит предотвращению негативных процессов в этой области;

обоснована необходимость включения залежей подземных вод и водоносных горизонтов, а также зон их просачивания в недра или на поверхность земли в категорию объектов подземных вод;

обоснована необходимость установления норм утверждения запасов подземных вод Государственной комиссией по минеральным ресурсам при Министерстве горного дела и геологии Республики Узбекистан в установленном законом порядке, что служит предотвращению негативных процессов в этой области;

правомерно обоснована важность регулирования использования подземных вод для различных нужд органами Министерства горного дела и геологии Республики Узбекистан совместно с органами водохозяйственного управления с учетом их взаимосвязи с поверхностными водами.

Внедрение результатов исследования. На основании результатов, полученных в ходе изучения правовой ситуации использования и охраны подземных вод:

предложение по вопросу определения ответственности за незаконное бурение скважины в подземные воды было использовано для составления поправки к части 4 статьи 74 Кодекса административной ответственности, которая включена в пункт 1 статьи 1 Закона Республики Узбекистан № ЗРУ-1062 от 5 мая 2025 года (Закон Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан № 9/дн-188 от 23 сентября 2025 года). Данное предложение устанавливает ответственность за незаконное бурение подземных вод;

предложение по вопросу определения ответственности за незаконное бурение подземных вод Предложение о включении залежей подземных вод и водоносных горизонтов, а также зон их просачивания в недра или на поверхность, в число категорий водных объектов было использовано при

составлении статьи 1 Закона Республики Узбекистан № ЗРУ-1076 от 30 июля 2025 года и второго абзаца части 2 статьи 8 Водного кодекса (Постановление Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан № 3/дн-273 от 29 декабря 2025 года). Это предложение послужило для полного определения сферы защиты подземных вод;

предложение о выдаче Государственной комиссией по минеральным ресурсам при Министерстве горного дела и геологии Республики Узбекистан в установленном законом порядке послужило основой для составления статьи 1 Закона Республики Узбекистан № ЗРУ-1076 от 30 июля 2025 года и части 1 статьи 123 Водного кодекса (Постановление Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан № 3/дн-273 от 29 декабря 2025 года). Данное предложение послужило для определения полномочий Государственной комиссии по минеральным ресурсам при Министерстве горного дела и геологии Республики Узбекистан и установления ее значимости в данной области;

предложение Министерства горнодобывающей промышленности и геологии Республики Узбекистан совместно с органами управления водными ресурсами о регулировании использования подземных вод для различных нужд с учетом их взаимосвязи с поверхностными водами послужило основой для формулирования второго абзаца второй части статьи 123 Водного кодекса Республики Узбекистан, статьи 1 Закона Республики Узбекистан № ЗРУ-1076 от 30 июля 2025 года (Постановление Института парламентских исследований при Законодательной палате Олий Мажлиса Республики Узбекистан № 3/дн-273 от 29 декабря 2025 года). Это предложение послужило усилению защиты подземных вод и ограничению их использования в неуказанных целях.

Структура и объем диссертации. Диссертация состоит из введения, трех глав, заключения, списка литературы и приложений. Общий объем диссертации составляет 131 страницы.

E'LON QILINGAN ISHLAR RO'YXATI
СПИСОК ОПУБЛИКОВАННЫХ РАБОТ
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